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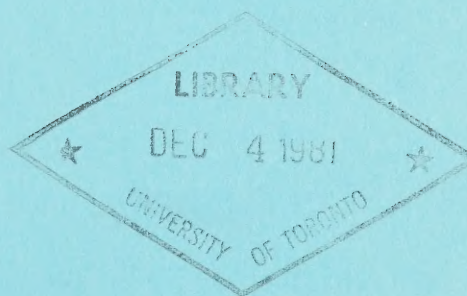
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CANADA

**TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA
FIRE-BRICK AND RELATED PRODUCTS**



REFERENCE

157

AN INTERIM REPORT BY
THE TARIFF BOARD

CAI
FN 55
- 81R57

REFERENCE NO. 157

AN INTERIM REPORT OF AN INQUIRY

by the

TARIFF BOARD

respecting

**TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA**

FIRE-BRICK AND RELATED PRODUCTS

This interim report made pursuant to a reference by the Minister of Finance and signed by the Board on September 22, 1981, is presented for tabling in Parliament under the provisions of section 6 of the Tariff Board Act.

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INTRODUCTION

In his letter of reference dated August 20, 1979, the Minister of Finance directs the Tariff Board to study and report on certain items in the Customs Tariff under which the tariff classification of a product depends on the made-in-Canada status of the goods. The Minister indicates that the review "should encompass not only the tariff and drawback items containing 'made in Canada' or 'not made in Canada' clauses but also any other tariff items which the Board considers relevant to its inquiry".

The tariff items specifically referred to the Board are listed in two annexes to the letter of reference. Among the items included in Annex I, for which a report is requested not later than January 1, 1983, is item 28105-1 relating to fire-brick, n.o.p., of a class or kind not made in Canada, when imported for certain specified uses. A public hearing in relation to this and certain other referred tariff items (collectively designated as Group 6: Miscellaneous Goods I of Reference No. 157) was held at Ottawa commencing on December 8, 1980.

Some time after the reference was instituted, but before the public hearing in December 1980, The Refractories Association of Canada approached the Department of Finance with a view to obtaining a complete revision of the tariff schedule relating to fire-brick and other refractory products. Because this request impinged upon Reference No. 157, it was decided, in discussions between the Department of Finance and the Tariff Board, that the Board would take cognizance of the representations of the Association and present an interim report at an early date, following which the Department would be in a position to take any further necessary action. When it was realized that certain issues concerning the administration of the existing items relating to fire-brick were to come before the Board, sitting in its quasi-judicial rather than advisory capacity, in connection with Appeal No. 1571 (Ersco Canada Limited v The Deputy Minister of National Revenue, Customs and Excise), it was decided to defer submission of the interim report until the appeal had been heard and judgment rendered. The appeal was heard on June 16, 1981, and the Board's declaration was issued on August 11, 1981. At time of writing, the period has not yet expired in which appeals from the Board's decision to the Federal Court of Canada may be filed on a point of law.

THE PRODUCTS

The term "fire-brick" is used to describe rigid refractory products produced from fire-clay or other mineral-based mixtures or other materials with a high melting point. Refractory products are produced in five stages: the materials are mixed into a paste or powder, shaped as nearly as possible into the final form, dried, fired and finished. Refractory products are so called because the materials used and the process of manufacture impart to the finished goods special qualities of resistance to heat, abrasion and/or corrosion. Consequently, the same products (or products similar to those used in heat-resistant structures such as blast furnaces, ovens and other plant for the metallurgical, chemical, ceramic or glass industries) are also used in the construction of silos and other structures where abrasion or corrosion rather than heat is the problem.

Refractory specialties are products such as mortars, castables, plastic refractories, ramming mixes and gunning mixes which are used in conjunction with, or in substitution for, fire-brick. They may be mechanically moulded, cast in situ in the same manner as concrete, rammed behind rigid forms or emplaced with pneumatic gunning equipment. They are usually supplied in containers such as drums, cartons or bags. More recently, ceramic fibres, in the form of batts, blankets, boards or cloth, have been similarly used.

THE INDUSTRY AND THE MARKET

The Refractories Association of Canada claims that its members produce nearly all the fire-brick and refractory specialties that are made in Canada. The members also import the aforementioned goods, to supplement their individual lines. The only non-member manufacturer to make representations to the Board was Union Carbide Canada Limited, which makes some types of carbon fire-brick in Canada and imports others from the United States.

The Canadian market for fire-brick is quite substantial, with about two-thirds (by value) of domestic consumption being met by imports. Somewhat more than one-third of Canadian production is exported. In 1977, the last year for which non-confidential production data are available, production amounted to 109,300 tons, valued at \$35,976,000, of which 44,838 tons, valued at \$13,017,000, were exported. Imports amounted to 267,553 tons, valued at \$49,846,000, so that the total domestic disappearance (unadjusted for inventory changes) was 332,015 tons valued at \$72,805,000. Imports exceeded exports, in value terms, in a ratio of nearly 4 to 1. Similar relationships existed between the various figures during the preceding four years. It is notable that the average values per ton in 1977 were: domestic production, \$329; imports, \$186; exports, \$290. Canadian production would appear to be concentrated on the more expensive products.

It is more difficult to determine precise figures for refractory specialties. In this case, it would appear that of the total supply available, about two-thirds is domestic. However, in 1977, the last year for which non-confidential production data are available, exports accounted for more than 20 per cent of domestic production and were about one-half of the value of imports. In the five years from 1973 to 1977, the share of the domestic market held by imports varied between 27 and 36 per cent.

THE TARIFF ITEMS

The following tariff items relate to fire-brick:

28100-1 Fire brick containing not less than ninety per cent of silica; magnesite fire brick or chrome fire brick; other fire brick valued at not less than one hundred dollars per one thousand, rectangular shaped, the dimensions of each not to exceed one hundred and twenty-five cubic inches, for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment

All Tariffs: Free (M.F.N. rate bound under GATT)

28105-1 Fire brick, n.o.p., of a class or kind not made in Canada, for use exclusively in the construction or repair of a furnace, kiln, or other equipment of a manufacturing establishment

B.P., M.F.N., G.P. and U.K. & Ireland Tariffs: Free (MFN rate bound under GATT)

General Tariff: 15 p.c.

28110-1 Fire brick, n.o.p.

B.P. and G.P.(a) Tariffs: 5 p.c.

M.F.N. Tariff - 1/1/81 : 9.2 p.c.

- 1/1/87 : 6.8 p.c. (bound under GATT)

General Tariff : 22.5 p.c.

U.K. & Ireland - 1/1/81 : 6.8 p.c.

In addition, there are two relevant drawback items:

97044-1 Fire brick when used by producers of ingots, blooms, slabs and billets of iron or steel, in the construction or repair of blast furnaces, oxygen furnaces, blast furnace stoves, open hearth furnaces (including checker chambers) and soaking pit furnaces

Drawback of duty: 100 p.c.

97045-1 Fire brick when used in the construction or repair of coke ovens

Drawback of duty: 100 p.c.

(a) If the G.P. Tariff still exists in 1987 and is determined as at present, the rate will be 4.5 p.c.

Tariff item 28100-1 applies to all fire-brick containing not less than 90 per cent of silica, and all magnesite or chrome fire-brick, regardless of use. Under item 28100-1, free entry is also accorded to all other fire-brick meeting certain requirements as to value, shape and size, provided that it is "for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment." The same proviso applies to free entry accorded to fire-brick, n.o.p., of a class or kind not

made in Canada, under item 28105-1. Thus, fire-brick containing not less than 90 per cent of silica and magnesite fire-brick or chrome fire-brick are not dutiable. Except for the General Tariff rate under item 28105-1, other types of fire-brick are dutiable only if they are not for the uses prescribed in the latter part of items 28100-1 and 28105-1, or, if they are to be so used, they are of a class or kind made in Canada and also fail to meet the requirements as to size, shape and value set forth in item 28100-1. In any case, dutiable products used in the coke industry or in the iron and steel industry are eligible for drawbacks of the duty paid. The net result is that between 1975 and 1980, the average annual rate of duty on all imports of fire-brick was between 1.0 and 1.5 p.c., and this would be reduced by the drawbacks.

The precise meaning of the nomenclature used in the fire-brick items has from time to time been questioned by customs administrators and other interested parties. The most restrictive interpretation of the word "fire" in the term "fire-brick" would limit the item to refractory products made from fire-clay used for heat-resistant purposes. Other approaches would allow the term "fire-brick" to be applied to any refractory product made from fire-clay regardless of use, or to any heat-resistant refractory regardless of composition. The broadest possible interpretation would allow the inclusion of all refractory products made of the materials used to make fire-brick, whether or not they themselves are to be used for heat-resistant, as well as abrasion-resistant, purposes. With regard to the word "brick", the most restrictive view would limit the meaning of the term "fire-brick" to parallelepiped-shaped products similar to normal building bricks. However, in order to build the structures made from fire-brick, wedge-shaped, cylindrical, semi-cylindrical and other odd-shaped bricks are also required. It is understood that under existing tariff provisions all shapes are admitted under the fire-brick items; the distinction is significant, however, with respect to the last clause of item 28100-1, which restricts free entry for the appropriate bricks to those which are rectangular-shaped. If the goods are held to be of a class or kind made in Canada, other shapes are dutiable, as "fire brick, n.o.p.", under item 28110-1.

Tariff items 28100-1 and 28105-1 include the end-use provision "for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment". At issue in Appeal No. 1571 was the proper classification of certain aluminum oxide ceramic tiles and bricks which were originally understood to have been imported for use as abrasion-resistant liners for chutes or ducts. The Deputy Minister classified the goods under tariff item 71100-1 ("all goods not enumerated ..."); the appellant contended that they were "fire brick ... of a class or kind not made in Canada, for use in the construction or repair of ... other equipment of a manufacturing establishment", as described in tariff item 28105-1.

Prior to the hearing of the appeal, it was agreed between the parties that, regardless of use, the products were properly classifiable as "fire-brick", and not as "unenumerated articles". It was further agreed that they were of a class or kind not made in Canada. It was also determined that some of the imported goods were in fact used in heat-resistant structures in manufacturing establishments and, therefore, were properly classifiable under tariff item 28105-1. It was also agreed that where the end use could not be

established, the proper classification was under item 28110-1. The only issue before the Board, therefore, was whether the term "other equipment" included abrasion-resistant equipment as well as heat-resistant equipment, allowing the goods to fall under item 28105-1 rather than item 28110-1.

In its declaration dated August 11, 1981, the Board, in allowing the appeal, found that tiles used for either the heat-resistance or abrasion-resistance requirements of manufacturing establishments meet the end-use qualification in item 28105-1 and are therefore classifiable thereunder. The effect of the decision is to require the classification of fire-brick used for any purpose in a manufacturing establishment under tariff item 28105-1. (The declaration of the Board is subject to appeal to the Federal Court of Canada on a question of law, within sixty days).

The refractory specialties cited above are classified under the following tariff items, all of which have M.F.N. rates bound under GATT:

28205-1 Manufactures of clay or cement

<u>Tariff</u>	<u>Rates</u>	
	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P. & M.F.N.	11.4 p.c.(a)	8.0 p.c.(a)
G.P.	7.5 p.c.	5.0 p.c.(b)
General	22.5 p.c.	22.5 p.c.

28220-1 Hydraulic cement concrete mixes, wet or dry

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P., M.F.N. & G.P.	Free(a)	Free(a)(b)
General	22.5 p.c.	22.5 p.c.

71100-1 All goods not enumerated in this schedule as subject to any other rate of duty ...

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P.	15.0 p.c.(a)	10.2 p.c.
M.F.N.	15.7 p.c.	10.2 p.c.(a)
G.P.	10.0 p.c.	6.5 p.c.(b)
General	25 p.c.	25 p.c.

93819 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; ...

93819-1 Other than the following

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P.	10 p.c.	10 p.c.
M.F.N.	14.4 p.c.	12.5 p.c.
G.P.	9.5 p.c.	8 p.c.(b)
General	25 p.c.	25 p.c.
U.K. & Ireland	12.5 p.c.	12.5 p.c.

(a) Rate applied to U.K. and Ireland.

(b) Assuming that the G.P.T. is still in effect, with rates calculated as at present.

Tariff item 28205-1 is applicable to specialties manufactured essentially from fire-clay. Item 28220-1 applies to refractory products containing cement. Products having a base other than fire-clay or cement and with a chemical binder to make them air setting, are classified under item 93819-1, while any refractory specialties that do not fit under any of the other items fall into item 71100-1.

The Tariff Board's decision on Appeal No. 1097 (Canadian Titanium Pigments Limited), published under date of July 28, 1975, held that refractory cements are properly admissible under item 28220-1. Prior to that decision, Customs and Excise had held that item 28220-1 applied to those cement mixes which contained only inactive aggregates. Refractory cements contain active aggregates, the chemical reaction of which to heat imparts the heat-resistant qualities. Such goods were previously held to be dutiable under either item 93819-1 or item 28205-1. Thus, at the time item 28220-1 was bound under GATT, in the Kennedy Round, no refractory products were held to be classified under the item.

REPRESENTATIONS

As noted earlier, The Refractories Association of Canada has placed before the Board representations already made to the Department of Finance respecting fire-brick and refractory specialties. The Association is proposing that a single item be created for refractory fire-brick for heat-resistant purposes, and that a new item be created for refractory specialties, drawing them from the items set forth above. Proposals for rates of duty are made only with respect to the M.F.N. Tariff. The proposed items and rates of duty are as follows:

Fire-brick - Rigid refractory (fire-brick), regardless of shape or size or chemical composition, designed for use in the construction or repair of furnaces, boilers, incinerators, kilns or other heat enclosures, n.o.p.

M.F.N. rate: Free

Specialties - Refractory specialties, including mortars, castables, plastic refractories, ramming mixes and gunning mixes, n.o.p.

M.F.N. rate of 11.9 p.c. (in 1980) to be reduced, in the same stages as the rate under item 28205-1, to 8 p.c. by 1987

With regard to fire-brick, the Association seeks to eliminate (i) the "obsolete provision" of item 28100-1 which has the effect of making distinctions between different sizes and shapes of product used for the same purposes, and (ii) the end-use restrictions of items 28100-1 and 28105-1 which implicitly exclude fire-brick used for such structures as municipal incinerators, boilers in non-manufacturing establishments and furnaces and flues in apartment buildings or commercial developments.

Stelco Inc. on behalf of itself and four other firms in the steel industry, namely Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dominion Foundries and Steel Ltd., and Sydney Steel Corporation, seeks continued free entry for fire-brick of a class or kind not made in Canada. It is suggested that this could best be accomplished by an eo nomine listing of made-in-Canada kinds of fire-brick, together with a remission programme for goods not available from Canadian production. At the public hearing, a spokesman for Lake Ontario Steel indicated that his firm concurs in the views expressed. In the steel companies' submission, no account has been taken of the existing drawback items. However, as the proposal of the Refractories Association seems to meet the needs of the steel industry, the representations of the latter would appear to require no further specific consideration.

Union Carbide Canada Limited objects to the Association's proposal for fire-brick on the ground that it would encompass carbon and graphite fire-brick manufactured by the company, with respect to which it seeks to retain protection. It requests that the proposed fire-brick item be modified to exclude products containing more than 85 per cent carbon or 85 per cent graphite. Although the protection enjoyed by the company is undercut by the drawback items, it wishes to continue to enjoy such protection as has been available to it in the past.

After the public hearing, the Board received a letter from the Carborundum Company in the U.S.A., requesting free entry for the fire-brick it now exports to Canada. The company states that it is primarily concerned with refractory products of high alumina content (78 p.c. or more) which are used primarily for their abrasion-resistant capabilities. In its letter, the company suggests that these products were entering under tariff item 28105-1.

In view of the manner in which the item was administered prior to Appeal No. 1571, this classification is open to question. However, the appeal decision makes the issue irrelevant and enables the company's concern to be met by a revision of the proposal of the Refractories Association.

The new tariff provision for fire-brick, proposed by the Refractories Association, would encompass all goods admissible under item 28105-1 as administered prior to the decision on Appeal No. 1571, and probably virtually all goods under item 28100-1. It would also draw goods from item 28110-1. Further, it would eliminate certain obsolete terminology now used in item 28100-1 (all kinds of fire-brick now meet the value criterion), and would remove the need for chemical analyses or, indeed, for otherwise distinguishing between the physical characteristics of different types of fire-brick used for heat-resistant purposes. The wording proposed by the Association, with respect to end use, might prove a little restrictive, but could easily be modified to cover all heat-resistant uses. The proposed free rate of duty is logical in view of the minimal average rate now in effect.

With respect to refractory specialties, the Association seeks to regain the protection on refractory cements lost as a result of the Board's decision in 1975 in connection with Appeal No. 1097. It is the Association's contention that it was never intended that such goods be covered by duty-free item 28220-1. In reaching its decision on the appeal, the Board, of course, could not take into account the intent of the law, but had to interpret the wording as it existed. It is the Board's view that it would be inappropriate at this time to make any comment on this subject of intent. As a quid pro quo for the restoration of protection on the refractory cements, the Association is willing to surrender part of the protection it now enjoys under items 71100-1 and 93819-1, as well as the minimal protection it has on fire-brick. The 8 p.c. rate proposed for 1987 appears to have been based on an unweighted arithmetic average of the rates that will then be applicable under the M.F.N. Tariff under the four items:

28205-1	8.0 p.c.
28220-1	Free
71100-1	10.2 p.c.
93819-1	<u>12.5 p.c.</u>
	30.7 p.c. - average 7.675 p.c.

As 8 p.c. is also the final rate for item 28205-1, the Association proposes that the new item have staged rates equal to those for that item. As indicated later, this presents certain difficulties for the years 1981, 1982 and 1983.

Using the best (confidential) data available, the Board has calculated the average annual rate of duty on the products to be covered by the proposed new item, basing import values on the years 1975 to 1979 and assuming entry under the applicable existing items at the M.F.N. rates to be in effect in 1987. The rates thus calculated vary between 10.3 p.c. and 11.4 p.c. On this basis, a case could have been made for a rate higher than the 8 p.c. proposed by the Association.

On behalf of the steel industry, Atlas Steels questions the intent and meaning of the proposed item for refractory specialties. It is pointed out that the use of the word "including" would leave the item open to cover any number of other products. In particular, the question is posed as to the possible application of the item to ceramic fibres made from fire-clay, in the form of batts, blankets, boards, cloth, etc., used in heat-resistant structures where abrasion-resistance is not also a factor. These materials now enter under item 71100-1. It is suggested that the intention of the Refractories Association could be met by an item worded:

Refractory and heat-insulating mortars, ramming and gunning mixes, castables and plastic refractories, n.o.p.

No reasons have been advanced as to why ceramic fibre material should not be included in such a provision. Neither party has indicated any reason for the "n.o.p.".

CONCLUSIONS

The nomenclature proposals of The Refractories Association of Canada have much to recommend them as tending to simplify the administration of the Customs Tariff. However, in view of the other representations received, and the decision on Appeal No. 1571, some modifications appear to be required.

The proposed item for fire-brick for heat-resistant purposes would cover such brick regardless of size, shape or composition. In view of the present duty and drawback situation, free entry appears to be appropriate except for those goods of concern to Union Carbide. If this item is adopted, it would replace items 28100-1 and 28105-1. In the decision on Appeal No. 1571, it is held that refractory fire-brick used for purposes other than heat-resistance should be treated in exactly the same manner as other fire-brick. The wording of the proposed new item should be modified accordingly, to eliminate end use. This would render item 28110-1 redundant.

The Association had indicated to the Board that it has no interest in non-heat-resistant uses of fire-brick and takes no position with respect to the classification of pertinent products. The Board has not received, nor, in view of the then pending appeal, did it seek to elicit any views from manufacturers, importers or users, regarding the appropriate future tariff treatment of refractory products for non-heat-resistant uses.

The recommended new item, would, of course, eliminate item 28105-1, specifically referred to the Board in Reference No. 157.

With regard to the refractory specialties, these have been considered by the Board only because the Association put forward its proposals as a package. The proposal with respect to refractory specialties would restore, at a lower level of duties, the situation that prevailed prior to Appeal No. 1097. Although no public hearing was held on this subject, the Board can see no reason why an item based on that proposed by the Association should not be

adopted. It is assumed that, in accordance with the usual practice, the Minister of Finance will make this report public and invite views thereon prior to the implementation of tariff changes. This would afford any potentially interested parties an opportunity to file objections for consideration by the Minister. As noted above, the rate of duty proposed by the Association for 1987 would be somewhat below the average rate that would apply were the pertinent goods to be dutiable at the M.F.N. rates applicable under existing items. For clarity, an amendment to tariff item 28220-1 would probably also be desirable.

The Association proposes that the M.F.N. rate for the item encompassing specialties should be set at the level applicable under tariff item 28205-1 at the time of introduction of the new item, i.e. 11.4 p.c. in 1981, 10.8 p.c. in 1982 or 10.3 p.c. in 1983, and that the rate should subsequently be reduced to 8 p.c. in step with the rate under item 28205-1. This would cause some difficulties in establishing a rate under the B.P. Tariff. Under items 28205-1 and 28220-1, there are no margins of preference, although such exist under items 71100-1 and 93819-1. It would seem desirable, in view of Canada's obligations under GATT, to avoid introducing, even temporarily, any new margin of preference. Moreover, it would also appear undesirable to raise any B.P. rate when the M.F.N. rate is not also increased. The existing B.P. rate under item 93819-1 is 10 p.c. Therefore, the Board recommends that, at its introduction, this new item should have B.P. and M.F.N. rates of 10 p.c. On and after January 1, 1984, when the B.P. and M.F.N. rates under item 28205-1 will be below 10 p.c., then the rates under this item should be the same as those under item 28205-1.

The Board has, however, noted the objections of the steel manufacturers to the structure of the proposed item, and favours the wording put forward by them. In addition, it sees no need for a "n.o.p." provision, but also feels that ceramic fibres should not be treated differently from other products for similar uses. The Board has no information concerning the use of refractory specialties in the manufacture or construction of abrasion-resistant or corrosion-resistant structures or equipment. However, in view of the disappearance of any distinction with respect to fire-brick, it would appear desirable to make a parallel provision for the refractory specialties.

RECOMMENDATIONS

Therefore, the Board recommends:

1. That Schedule 'A' to the Customs Tariff be amended by striking out tariff items 28100-1, 28105-1 and 28110-1, together with the enumerations of goods and rates of duty set opposite each of these items, and by inserting therein the following tariff items, enumerations of goods and rates of duty:

	<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
Rigid refractories (fire-brick) of any shape, size or composition:			
28100-1 Other than the following ...	Free	Free	15 p.c.
28101-1 Products containing not less than 85 per cent of carbon or graphite			
On and after Jan. 1, 1981	5 p.c.	9.2 p.c.	22.5 p.c.
On and after Jan. 1, 1982	5 p.c.	8.8 p.c.	22.5 p.c.
On and after Jan. 1, 1983	5 p.c.	8.4 p.c.	22.5 p.c.
On and after Jan. 1, 1984	5 p.c.	8.0 p.c.	22.5 p.c.
On and after Jan. 1, 1985	5 p.c.	7.6 p.c.	22.5 p.c.
On and after Jan. 1, 1986	5 p.c.	7.2 p.c.	22.5 p.c.
On and after Jan. 1, 1987	5 p.c.	6.8 p.c.	22.5 p.c.

2. Subject to no valid objection being received after publication of this report, that:

Schedule 'A' to the Customs Tariff be further amended by inserting therein the following tariff item, enumeration of goods and rates of duty:

	<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
28115-1 Refractory and heat insulating mortars, ramming and gunning mixes, castables, plastic refractories and ceramic fibres in the form of batts, blankets, boards or cloth; all the foregoing for use in the construction or repair of furnaces, boilers, incinerators, kilns or other heat-resistant, abrasion-resistant or corrosion-resistant enclosures, equipment or structures			

	<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
On and after Jan. 1, 1981	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1982	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1983	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1984	9.7 p.c.	9.7 p.c.	22.5 p.c.
On and after Jan. 1, 1985	9.1 p.c.	9.1 p.c.	22.5 p.c.
On and after Jan. 1, 1986	8.6 p.c.	8.6 p.c.	22.5 p.c.
On and after Jan. 1, 1987	8 p.c.	8 p.c.	22.5 p.c.

3. That the enumeration of goods opposite item 28220-1 be amended to:

Hydraulic cement concrete mixes, wet or dry, not
including refractory mixes.


Chairman


First Vice-Chairman


Member


Member


Member


Member

Tarif de
préférence
britannique

Tarif de
la nation
la plus
favorisée

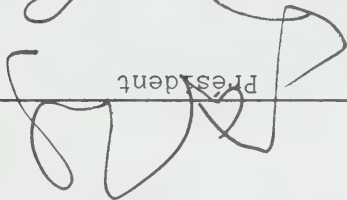
Tarif
général

le 1er janv. 1981 et après	10 p.c.	10 p.c.	10 p.c.
le 1er janv. 1982 et après	10 p.c.	10 p.c.	22.5 p.c.
le 1er janv. 1983 et après	10 p.c.	10 p.c.	22.5 p.c.
le 1er janv. 1984 et après	9.7 p.c.	9.7 p.c.	22.5 p.c.
le 1er janv. 1985 et après	9.1 p.c.	9.1 p.c.	22.5 p.c.
le 1er janv. 1986 et après	8.6 p.c.	8.6 p.c.	22.5 p.c.
le 1er janv. 1987 et après	8 p.c.	8 p.c.	22.5 p.c.

3. Que l'énumération des marchandises au numéro tarifaire 28220-1 soit amendée pour se lire comme suit:

Mélanges de béton de ciment hydraulique, humides ou secs, n'incluant pas de mélanges réfractaires.

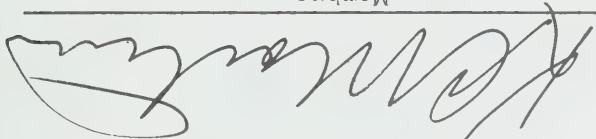
Président



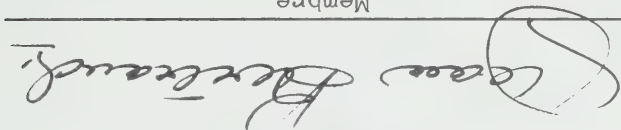
Premier vice-président



Membre



Membre



Membre



Membre

Tarif de la nation la plus favorisée	Tarif général	Tarif de préférence britannique	le 1er janv. 1981 et après	le 1er janv. 1982 et après	le 1er janv. 1983 et après	le 1er janv. 1984 et après	le 1er janv. 1985 et après	le 1er janv. 1986 et après	le 1er janv. 1987 et après
9.2 p.c.	22.5 p.c.	5 p.c.	5 p.c.	8.8 p.c.	8.4 p.c.	8.0 p.c.	7.6 p.c.	7.2 p.c.	6.8 p.c.

2. A condition qu'aucune objection valable ne soit reçue après la publication de ce rapport, que:

la liste "A" du Tarif des douanes soit en outre amendée en y insérant la position tarifaire et l'énumération de marchandises et de taux de droits suivants:

Tarif de la nation la plus favorisée	Tarif général
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28115-1 Mortiers réfractaires et isolants de la chaleur mélanges à tasser et à pilier, produits coulables, produits réfractaires plastiques et fibres de céramique sous la forme de coussins, de couvertures, de planches ou de tissu; tout ce qui précède devant être utilisé pour la construction ou la réparation de fourneaux, de chaudières, d'incinérateurs, de fours ou d'autres endroits clos, installations ou structures, résistant à la chaleur, l'abrasion ou la corrosion

P.B. Aux numéros 28205-1 et 28220-1, il n'existe aucune marge de préférence, bien qu'il y en ait une aux numéros 71100-1 et 93819-1. Il serait désirable à cause des obligations du Canada envers le GATT, d'éviter d'introduire, même à titre temporaire, toute nouvelle marge de préférence. De plus, il semblerait indésirable d'élever tout taux P.B., lorsque le taux N.P.F. n'est pas élevé en proportion. Le taux actuel P.B. sous la position tarifaire 93819-1 est de 10 p.c. Par conséquent, la Commission recommande qu'à son introduction ce nouveau numéro comporte des taux P.B. et N.P.F. de 10 p.c. Le 1^{er} janvier 1984 et par la suite, lorsque les taux P.B. et N.P.F. au numéro 28205-1 seront au-dessous de 10 p.c., les taux de ce numéro devraient être les mêmes que ceux du numéro 28205-1.

La Commission a cependant noté les objections des fabricants d'acier à la structure du numéro proposé et elle est en faveur du texte qu'ils ont proposé. En outre, elle ne voit aucun besoin d'une mention "n.d." et pense également que les fibres céramiques ne devraient pas être traitées différemment des autres produits destinés à des utilisations semblables. La Commission ne possède aucune information concernant l'utilisation des spécialités réfractaires dans la fabrication, la construction ou l'installation de structures résistant à l'abrasion ou à la corrosion. Cependant, devant la disparition de toute distinction se rapportant à la brique réfractaire, il semble désirable d'établir des dispositions parallèles pour les spécialités réfractaires.

RECOMMANDATIONS

La Commission recommande par conséquent:

1. Que la liste "A" du Tarif des douanes soit amendée en éliminant les numéros tarifaires 28100-1, 28105-1 et 28110-1, de même que les énumérations de marchandises et en y insérant les énumérations tarifaires suivantes de marchandises et de taux de droits:

Tarif de la nation	Tarif de préférence britannique	Tarif de la plus favorisée	Tarif général
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Produits réfractaires ri-
gides (briques réfrac-
taires) de toutes formes,
dimensions ou composi-
tions:

28100-1 Autres que ce qui suit En fr.
28101-1 Produits ne contenant pas En fr.
moins de 85 p.c. de car- 15 p.c.
bone ou graphite

Le numéro tarifaire proposé pour la brique réfractaire utilisée à des fins de résistance à la chaleur couvrirait cette brique sans tenir compte de sa dimension, de sa forme ou de sa composition. Vu la situation actuelle des droits et des remboursements de ceux-ci, la franchise de droits semble convenir sauf pour les marchandises qui préoccupent la Union Carbone. Si ce numéro tarifaire est adopté, il remplacera les numéros 28100-1 et 28105-1. Dans la décision sur l'appel n° 1571, on considère que les briques réfractaires utilisées pour des fins autres que la résistance à la chaleur devraient être traitées exactement de la même façon que les autres briques réfractaires. Le texte du nouveau numéro proposé devrait être modifié en conséquence afin d'enlever l'utilisation ultime. Ceci rendrait la position tarifaire 28110-1 superflue.

L'Association a indiqué à la Commission qu'elle ne s'intéresse pas aux utilisations de résistance autres qu'à la chaleur pour les briques réfractaires et elle ne prend pas position au sujet de la classification des produits pertinents. La Commission n'a pas reçu - et n'a pas cherché à obtenir du fait de l'appel en cours - de points de vue provenant de fabricants, d'importateurs ou d'utilisateurs concernant le traitement douanier futur des produits réfractaires à des fins d'utilisation pour résistance autre qu'à la chaleur.

L'adoption de la nouvelle position tarifaire recommandée éliminerait, il va de soi, la position tarifaire 28105-1 spécifiquement référée à la Commission dans le renvoi n° 157.

En ce qui concerne les spécialités réfractaires, celles-ci n'ont été examinées par la Commission que parce que l'Association a émis ses propositions globalement. La proposition quant aux spécialités réfractaires rétablirait à un taux de droits moins élevé la situation qui existait avant l'appel n° 1097. Même s'il n'y a pas eu d'audience publique à cet égard, la Commission ne voit aucune raison pour laquelle un numéro basé sur la proposition de l'Association ne serait pas adopté. Il est supposé que, selon la pratique habituelle, le ministre des Finances rendra son rapport public et invitera la soumission de points de vue s'y rapportant avant de procéder à l'implantation de changements au tarif. Cela donnerait à toutes les parties éventuellement intéressées la possibilité de faire connaître leurs objections au ministre pour considération. Ainsi qu'on l'a noté ci-dessus, le taux proposé pour 1987 par l'Association serait quelque peu au-dessous du taux moyen s'appliquant si les marchandises pertinentes étaient sujettes à des droits aux taux N.P.F. appropriés, selon les numéros existant actuellement. Pour plus de clarté, un amendement au numéro tarifaire 28220-1 serait probablement désirable aussi.

L'Association propose que le taux N.P.F. pour le numéro tarifaire incluant les spécialités soit ajusté au niveau s'appliquant au numéro tarifaire 28205-1 au moment de l'introduction du nouveau numéro, soit 11.4 p.c. en 1981, 10.8 p.c. en 1982 et 10.3 p.c. en 1983, et que le taux soit par la suite réduit à 8 p.c. concurremment avec le taux du numéro 28205-1. Cette situation causerait quelques difficultés pour l'établissement d'un taux pour le tarif

28205-1	8.0 p.c.
28220-1	En franchise
71100-1	10.2 p.c.
93819-1	12.5 p.c.
	<hr/>
	30.7 p.c. - moyenne: 7.675 p.c.

Du fait que 8 p.c. est également le taux final au numéro 28205-1, l'Association propose que le nouveau numéro ait une structure de taux égale à ceux s'appliquant à ce numéro. Comme il a été indiqué par la suite, cette question présente certaines difficultés pour les années 1981, 1982 et 1983.

En utilisant les meilleures données (confidentielles) dont elle dispose, la Commission a calculé le taux moyen annuel de droits sur les produits devant être couverts par le nouveau numéro proposé, en basant les valeurs des importations sur les années 1975 à 1979 et en supposant que l'entrée se fasse aux numéros applicables existants aux taux N.P.F. devant être en vigueur en 1987. Les taux ainsi calculés varient entre 10.3 p.c. et 11.4 p.c. Sur cette base, on aurait pu justifier un taux plus élevé que celui de 8 p.c. proposé par l'Association.

Au nom de l'industrie sidérurgique, Atlas Steels met en doute l'intention et le sens du numéro proposé pour les spécialités réfractaires. La compagnie signale que l'emploi du mot "comprenant" laisserait le numéro ouvert à la couverture de n'importe quel nombre d'autres produits. En particulier, on doute de l'application possible du numéro aux fibres céramiques faites d'argile réfractaire, sous forme de coussins, de couvertures, de planches, de tissus etc., utilisées dans des structures résistant à la chaleur dans le cas où la résistance à l'abrasion ne constitue pas l'un des facteurs. Ces matériaux entrent actuellement au numéro 71100-1. Il est suggéré que l'on pourrait satisfaire à l'intention de la Refractories Association par un numéro comportant le texte:

Mortiers réfractaires et isolants de la chaleur, mélanges à tasser et à piler, produits coulables et produits réfractaires plastiques, n.d.

Aucune raison n'a été avancée pour la non inclusion des matériaux en fibres céramiques dans ces dispositions. Aucune des parties n'a donné une raison pour la mention "n.d."

CONCLUSIONS

Les propositions de nomenclature de la Refractories Association of Canada semblent présenter beaucoup d'avantages en ce qui a trait à la simplification de l'administration du Tarif des douanes. Cependant, vu les autres observations qui ont été reçues ainsi que la décision sur l'appel n° 1571, quelques modifications semblent requises.

carbone ou 85 pour cent de graphite. Bien que la protection dont jouit la compagnie soit minée par les drawbacks, elle désire continuer à jouir de la protection qui lui a été assurée par le passé.

Après l'audience publique, la Commission a reçu une lettre de la Carborundum Company des Etats-Unis demandant l'entrée en franchise des briques réfractaires qu'elle exporte actuellement au Canada. La compagnie déclare qu'elle se préoccupe surtout des produits réfractaires à haute teneur en alumine (78 p.c. ou plus) qui sont utilisés surtout à cause de leur capacité de résistance à l'abrasion. Dans sa lettre la compagnie suggère que ces produits sont admis sous la position tarifaire 2810-1. Etant donné la façon dont l'item tarifaire était administré avant l'appel n° 1571, cette classification est sujette à question. Cependant la déclaration de la Commission enlève la pertinence de cette question et permet que le problème de la compagnie soit résolu par une révision de la soumission de la Refractories Association.

Les nouvelles dispositions tarifaires pour les briques réfractaires proposées par la Refractories Association regroupaient toutes les marchandises admissibles au numéro tarifaire 2810-1 telles qu'administrées avant la décision sur l'appel n° 1571 et probablement presque toutes les marchandises incluses au numéro 2810-1. Elles attireraient également certaines marchandises du numéro 2810-1. De plus elles élimineraient une terminologie désuète actuellement utilisée pour le numéro 2810-1 (toutes les sortes de briques réfractaires répondent maintenant aux critères de valeur) et enlèveraient le besoin d'analyses chimiques et mettraient fin à toutes les distinctions entre les différents types de briques réfractaires utilisées à des fins de résistance à la chaleur. Le libellé proposé par l'Association peut se révéler quelque peu restrictif en ce qui concerne l'utilisation ultime mais il peut être facilement modifié afin d'englober toutes les utilisations de résistance à la chaleur. La franchise de droits proposée est logique si l'on considère le taux moyen minimal qui est actuellement en vigueur.

En ce qui concerne les spécialités réfractaires, l'Association cherche à retrouver la protection sur les éléments réfractaires perdue par suite de la décision de la Commission rendue en 1975 dans l'appel n° 1097. L'Association prétend qu'il n'a jamais été question que ces marchandises soient couvertes par le numéro 2820-1 en franchise de droits. Lorsqu'elle a rendu sa décision sur l'appel, la Commission ne pouvait naturellement pas prendre l'intention de la loi en considération, mais devait interpréter le texte tel qu'il était. La Commission est d'opinion qu'il ne convient pas actuellement de présenter des commentaires au sujet de cette intention. En échange de la restauration d'une protection sur les éléments réfractaires, l'Association est consentante à renoncer à une partie de la protection dont elle jouit actuellement sous les numéros 7110-1 et 93819-1, de même qu'à la protection minimale qu'elle possède sur les briques réfractaires. Le taux de 8 p.c. proposé pour 1987 semble avoir été basé sur une moyenne arithmétique non pondérée des taux qui seront applicables aux quatre numéros au titre du tarif N.P.F.:

Brique réfractaire:

Produit réfractaire rigide (brique réfractaire), quelles que soient la forme, les dimensions ou la composition chimique conçu pour utilisation dans la construction ou la réparation de fourneaux, chaudières, incinérateurs, fours ou tout espace enclous à chaleur, n.d.

Taux N.P.F.: En franchise

Spécialités:

Spécialités réfractaires, y compris les mortiers, les produits coulables, les produits réfractaires plastiques, les mélanges à tasser et à piler, n.d.

Taux N.P.F.: 11.9 p.c. (en 1980) devant être réduit par étapes identiques à celles du numéro 28205-1, pour arriver au taux de 8 p.c.

En ce qui concerne les briques réfractaires, l'Association cherche à éliminer (i) la "disposition désuète" du numéro tarifaire 28100-1 qui a pour effet de faire des distinctions entre les différentes dimensions et formes de produits utilisés aux mêmes fins, et (ii) les restrictions d'utilisation finale des numéros 28100-1 et 28105-1 qui excluent implicitement les briques réfractaires utilisées pour des structures comme les incinérateurs municipaux, les chaudières d'établissements non manufacturiers et les fournaies et tuyaux dans les immeubles à appartements ou les développements commerciaux.

Stelco Inc. en son nom et en celui de quatre autres firmes de l'industrie de l'acier, soit l'Algoma Steel Corporation, Atlas Steels (division de Rio Algom Ltd.), Dominion Foundries and Steel Ltd. et la Sydney Steel Corporation cherche à obtenir la continuation de l'entrée en franchise des briques réfractaires d'une classe ou espèce non fabriquée au Canada. Il est suggéré que ce résultat serait obtenu le plus efficacement par une liste nominative des sortes de briques réfractaires fabriquées au Canada, allant de pair avec un programme de remise pour les marchandises qui ne sont pas disponibles auprès des producteurs canadiens. Lors de l'audience publique, un porte-parole de la Lake Ontario Steel a indiqué que sa firme était en accord avec les points de vue exprimés. Dans la soumission des compagnies d'acier, mention n'a pas été faite des numéros tarifaires comportant une remise de droits. Cependant, vu que la suggestion de la Refractories Association semble permettre de faire face aux besoins de l'industrie sidérurgique, les représentations de cette dernière ne semblent pas nécessiter plus de considération spécifique.

La Union Carbide of Canada Limited fait objection aux propositions de l'Association sur les briques réfractaires en se basant sur le fait qu'elles regrouperaient les briques réfractaires au carbone et au graphite fabriquées par la compagnie pour lesquelles elle cherche à conserver une protection. Elle demande que le numéro tarifaire de briques réfractaires proposé soit modifié de façon à exclure les produits contenant plus de 85 pour cent de

Tarif	1er janv. 1981	1er janv. 1987
P.B.	10 p.c.	10 p.c.
N.P.F.	14.4 p.c.	12.5 p.c.
T.P.G.	9.5 p.c.	8 p.c. (b)
Général	25 p.c.	25 p.c.
R.U. et Irlande	12.5 p.c.	12.5 p.c.

- (a) Taux s'appliquant au R.U. et à l'Irlande.
 (b) En supposant que le T.P.G. est toujours en vigueur, avec des taux calculés comme actuellement.

Le numéro tarifaire 28205-1 s'applique aux spécialités fabriquées essentiellement à partir d'argile réfractaire. Le numéro 28220-1 s'applique aux produits réfractaires contenant du ciment. Les produits ayant une base autre que l'argile réfractaire ou le ciment et possédant un liant chimique qui les fait prendre à l'air, sont classés au numéro 93819-1, tandis que toute spécialité réfractaire qui ne tombe pas sous le chef des autres numéros tombe dans le numéro 71100-1.

La décision de la Commission du tarif dans l'appel n° 1097 (Canadian Titanium Pigments Limited), publiée en date du 28 juillet 1975, soutint que les ciments réfractaires sont proprement admissibles sous la position tarifaire 28220-1. Avant cette décision, le département des douanes et d'accise considérait que l'item tarifaire 28220-1 s'appliquait aux mélanges de ciment contenant seulement des agrégats inactifs. Les ciments réfractaires contiennent des agrégats actifs dont la réaction chimique à la chaleur leur transmet des qualités de résistance à la chaleur. Ces marchandises étaient auparavant considérées comme passibles de droits au numéro 93819-1 ou au numéro 28205-1. Ainsi, lorsque le numéro 28220-1 fut consolidé selon le GATT, lors du Kennedy Round, aucun produit réfractaire ne devait être classé sous ce numéro.

REPRESENTATIONS

Ainsi qu'il a noté ci-dessus, la Refractories Association of Canada a soumis à la Commission des représentations faites auparavant auprès du ministère des Finances au sujet des briques et des spécialités réfractaires. L'Association propose qu'un seul numéro tarifaire soit créé pour les briques réfractaires aux fins de résistance à la chaleur et qu'un nouveau numéro soit créé pour les spécialités réfractaires en tirant celles-ci des numéros décrits ci-dessus. Les propositions de taux de droits ne sont faites qu'au sujet du tarif N.P.F. Les numéros et taux proposés s'établissent comme suit:

Dans sa déclaration du 11 août 1981, la Commission, en admettant l'appel, déclare que les tuiles utilisées soit pour la résistance à la chaleur ou à l'abrasion tels que requis par des établissements industriels rencon- trent la qualification d'utilisation ultime de l'item tarifaire 28105-1 et qu'en conséquence elles devaient y être classifiées. Cette décision a donc comme effet qu'il faut classifier toute brique réfractaire utilisée par un établissement industriel sous le numéro tarifaire 28105-1, quelle qu'en soit son usage. (La déclaration de la Commission est appealable sur toute question de droit à la Cour fédérale du Canada dans un délai de soixante jours).

Les spécialités réfractaires citées ci-dessus sont classées aux numéros tarifaires suivants et ont tous un taux N.P.F. en vertu du GATT:

28205-1 Articles en argile ou en ciment

Tarif	1er janv. 1981	1er janv. 1987
P.B. & N.P.F.	11.4 p.c. (a)	8.0 p.c. (a)
T.P.G.	7.5 p.c.	5.0 p.c. (b)
Général	22.5 p.c.	22.5 p.c.

28220-1 Mélanges de béton de ciment hydraulique humides ou secs

Tarif	1er janv. 1981	1er janv. 1987
P.B., N.P.F. & T.P.G.	En fr. (a)	En fr. (a) (b)
Général	22.5 p.c.	22.5 p.c.

71100-1 Tous les produits non dénommés dans la liste comme étant soumis à quelque autre droit ...

Tarif	1er janv. 1981	1er janv. 1987
P.B.	15.0 p.c. (a)	10.2 p.c.
N.P.F.	15.7 p.c.	10.2 p.c. (a)
T.P.G.	10.0 p.c.	6.5 p.c. (b)
Général	25 p.c.	25 p.c.

93819 - Produits chimiques et préparations des industries chi- miques ou des industries connexes (sans comprendre celles consistant en mélanges de produits naturels autres que les charges composites pour peintures), n.d.; ...

limiterait ce numéro aux produits réfractaires fabriqués en argile réfractaire utilisés à des fins de résistance à la chaleur. D'autres interprétations permettraient au terme de brique réfractaire de s'appliquer à tout produit réfractaire fabriqué en argile réfractaire quelle qu'en soit l'utilisation, ou à tout matériau réfractaire résistant à la chaleur, quelle qu'en soit la composition. L'interprétation la plus large possible permettrait l'inclusion de tous les produits réfractaires fabriqués à partir des matériaux utilisés pour fabriquer la brique réfractaire, qu'ils soient utilisés eux-mêmes ou non pour fins de résistance à la chaleur ou à l'abrasion. En ce qui concerne le mot "brique", le point de vue le plus restrictif limiterait le sens du terme "brique réfractaire" à des produits de forme parallélépipédique semblables aux briques utilisées normalement dans la construction. Cependant, afin de construire les structures faites de brique réfractaire, il convient aussi d'utiliser des briques en forme de coin, de cylindre, de semi-cylindre et d'autres formes. Il est entendu que selon les dispositions actuelles du tarif toutes les formes sont admises au numéro des briques réfractaires; cependant, la distinction prend son sens en ce qui a trait à la dernière clause du numéro 2810-1 qui restreint la franchise en douane pour les briques appropriées à celles qui sont de forme rectangulaire. Si ces marchandises sont considérées être d'une catégorie ou espèce fabriquée au Canada, les autres formes sont frappées de droits comme "brique réfractaire, n.d.", du numéro 28110-1.

Les numéros tarifaires 28100-1 et 28105-1 comportent la disposition d'utilisation finale c'est-à-dire que les briques servent "exclusivement à la construction ou la réparation d'une fournaise, d'un fourneau ou d'autres appareils d'établissements industriels". La question centrale dans l'appel n° 1571 était la classification correcte de certaines tuiles et briques de céramique à oxyde d'aluminium qui avaient été originellement importées, croyait-on, comme parement résistant à l'abrasion et destinées à des salles ou à des conduits. Le sous-ministre a classé les marchandises en tant que non dénommées au numéro tarifaire 71100-1; l'appelant a prétendu qu'il s'agissait d'une "brique réfractaire ... d'une catégorie ou espèce non produite au Canada, pour servir à la construction ou à la réparation ... d'autres appareils d'établissements industriels" tel que décrit au numéro tarifaire 28105-1.

Avant l'audition de l'appel, un accord est intervenu entre les parties en présence au sujet de quelques-uns des points en litige. Il a été entendu que, quelle que soit leur utilisation, les produits pouvaient être classés comme "brique réfractaire" et non comme "produit non dénommé". Il fut aussi entendu que ces produits étaient d'une catégorie ou espèce non fabriquée au Canada. Il a été également déterminé que certaines des marchandises im-portées étaient en fait utilisées dans des structures résistant à la chaleur d'établissements industriels et que, par conséquent, elles pouvaient être correctement classées au numéro tarifaire 28105-1. De plus, il a convenu que la ou l'utilisation finale ne pouvait pas être établie, leur classement serait au numéro 28110-1. Donc le seul point en litige devant la Commission était de savoir si le terme "d'autres appareils" comprenait la résistance à l'abrasion aussi bien que celle à la chaleur permettant la classification des marchan-dises sous la position tarifaire 28105-1 plutôt que 28110-1.

En outre, il existe deux numéros où s'applique le drawback:

97044-1 Brique réfractaire, lorsqu'elle est utilisée par les producteurs de lingots, de massaux, de brames ou de billettes de fer ou d'acier, dans la construction ou la réparation de hauts fourneaux, de fours à oxygène, d'appareils à air chaud pour hauts fourneaux, de fours à sole (y compris les régénérateurs) et de fours à pits ordinaires

Drawback: 100 p.c.

97045-1 Brique réfractaire, lorsqu'elle est utilisée à la construction ou la réparation de fours à coke

Drawback: 100 p.c.

(a) Si le tarif P.G. est encore en vigueur en 1987 et qu'il est fondé sur sa base actuelle, le taux sera de 4.5 p.c.

Le numéro tarifaire 28100-1 s'applique à toutes les briques réfractaires ne contenant pas moins de 90 pour cent de cillice, et toute les briques réfractaires de magnésite ou au chromite, quel qu'en soit l'emploi. Aux termes du numéro 28100-1, la franchise en douane est également accordée à toutes les autres briques réfractaires satisfaisant à certaines exigences quant à leur valeur, leur forme ou leurs dimensions, pourvu qu'elles "servent exclusivement à la construction ou à la réparation d'une fournaise, d'un fourneau ou d'autres appareils d'établissements industriels". Les mêmes dispositions s'appliquent à la franchise en douane qui est accordée aux briques réfractaires, n.d., d'une catégorie ou espèce non produite au Canada, du numéro 28105-1. Ainsi, les briques réfractaires contenant au moins 90 pour cent de cillice et les briques réfractaires de magnésite ou au chromite ne sont pas frappées de droits de douane. Saut le taux du tarif général du numéro 28105-1, les autres types de briques réfractaires ne sont frappés de droits que s'ils ne sont pas utilisés selon les fins prévues aux numéros 28100-1 et 28105-1 ou, en cas d'utilisation de ce type, sont d'une catégorie ou espèce produite au Canada et ne peuvent également satisfaire aux exigences de dimensions, de forme et de valeur prévus au numéro 28100-1. Dans tous les cas, les produits frappés de droits qui sont utilisés par l'industrie du coke ou par celle du fer et de l'acier peuvent bénéficier du remboursement des droits payés. Le résultat net est qu'entre 1975 et 1980 le taux annuel moyen des droits payés sur toutes les importations de briques réfractaires était entre 1.0 et 1.5 p.c., et que ce taux était réduit par les remboursements.

Le sens précis de la nomenclature utilisée pour les articles du type brique réfractaire a été remis en question de temps à autre par les administrateurs des douanes et les autres parties intéressées. L'interprétation la plus restrictive du mot "réfractaire" dans le terme de "brique réfractaire"

Il est plus difficile d'établir des chiffres précis pour les spécialités réfractaires. Dans ce cas, il semble que, de la quantité disponible totale, environ les deux tiers sont d'origine canadienne. Cependant, en 1977, dernière année pour laquelle on dispose de données de production non-confidentielles, les exportations ont représenté plus de 20 pour cent de la production intérieure et représentaient environ la moitié de la valeur des importations. Dans les cinq années qui se sont écoulées entre 1973 et 1977, la part du marché intérieur couverte par les importations variait entre 27 et 36 pour cent.

LES NUMEROS TARIFAIRES

Les numéros tarifaires suivants se rapportent à la brique réfractaire:

28100-1 Brique réfractaire contenant au moins quatre-vingt-dix pour cent de cillice; brique réfractaire de magnésite ou de chromite; autre brique réfractaire évaluée à cent dollars le mille ou moins, de forme rectangulaire, le volume de chacune ne devant pas excéder cent vingt-cinq pouces cubes, pour servir exclusivement à la construction ou à la réparation d'une fournaise, d'un fourneau ou d'autres appareils industriels

En franchise selon tous les tarifs (taux consolidé NPF en vertu du GATT)

28105-1 Brique réfractaire, n.d., d'une catégorie ou espèce non produite au Canada, pour servir exclusivement à la construction ou à la réparation d'une fournaise, d'un fourneau ou d'autres appareils d'établissements industriels

En franchise selon les tarifs P.B., N.P.F., P.G., R.U. et Irlande (taux consolidé NPF en vertu du GATT)
 Tarif général: 15 p.c.

28110-1 Brique réfractaire, n.d.

Tarifs P.B. et P.G.(a)	:	5 p.c.
NPF - 1/1/81	:	9.2 p.c.
- 1/1/87	:	6.8 p.c. - consolidé en vertu du GATT
Général	:	22.5 p.c.
R.U. et Irlande - 1/1/81:		6.8 p.c.

mélanges pour faire une pâte ou une poudre, modèles pour obtenir autant que possible la forme finale, séchés, mis au feu et finis. Ces produits réfractaires sont ainsi appelés du fait que les matériaux utilisés et le processus de fabrication communiquent aux produits finis des qualités spéciales de résistance à la chaleur, à l'abrasion et/ou à la corrosion. Par conséquent, les mêmes produits, (ou des produits similaires à ceux qui sont utilisés dans des structures résistant à la chaleur telles que les hauts fourneaux, les fours et autres installations pour les industries métallurgiques, chimiques, céramiques et verreries) sont également utilisés pour la construction de silos et autres structures où l'abrasion ou la corrosion, plutôt que la chaleur, présentent un problème.

Les spécialités réfractaires sont des produits tels que les mortiers, les produits coulables, les produits plastiques réfractaires, les mélanges à tasser et à piler qui sont utilisés en conjonction avec la brique réfractaire ou en remplacement de celle-ci. Ils peuvent être moulés mécaniquement, coulés in situ de la même façon que le béton, tassés derrière des formes rigides ou mis en place avec des fusils pneumatiques. Ils sont en général fournis en barils, cartons, sacs ou autres contenants. Plus récemment, des fibres de céramique sous forme de coussins, de couvertures, de planches ou de tissu, ont été également utilisées.

L'INDUSTRIE ET LE MARCHE

La Refractories Association of Canada déclare que ses membres produisent presque toutes les briques ou spécialités réfractaires fabriquées au Canada. Ses membres importent également les produits mentionnés, afin de compléter la gamme de leurs produits. Le seul fabricant non membre à présenter ses observations à la Commission a été l'Union Carbide of Canada Limited, qui fabrique quelques types de briques réfractaires au carbone et en importe d'autres des Etats-Unis.

Le marché canadien de la brique réfractaire est assez important et environ deux tiers (en valeur) de la consommation intérieure sont couverts par les importations. Un peu plus du tiers de la production canadienne est exporté. En 1977, dernière année pour laquelle des données de production non-confidentielles sont disponibles, la production s'est élevée à 109,300 tonnes d'une valeur de \$35,976,000, dont 44,838 tonnes d'une valeur de \$13,017,000 ont été exportées. Les importations se sont élevées à 267,553 tonnes d'une valeur de \$49,846,000, de sorte que la disparition intérieure totale (sans ajustement pour changements d'inventaire) a été de 332,015 tonnes d'une valeur de \$72,805,000. Les importations ont dépassé les exportations en termes de valeur selon un rapport de presque 4 à 1. Des proportions semblables existaient entre les différents chiffres pendant les quatre années qui ont précédé. On notera que la valeur moyenne par tonne en 1977 était: production intérieure: \$329; importations: \$186; exportations \$290. La production canadienne semble se concentrer sur les produits plus dispendieux.

INTRODUCTION

Dans sa lettre de référence datée du 20 août 1979, le ministre des Finances enjoint à la Commission du tarif de mener une étude et de faire rapport sur certains numéros du Tarif des douanes sous lesquels la classification tarifaire d'un produit est déterminée selon qu'il soit ou non fabriqué au Canada. Le ministre indique que cette étude "devra porter non seulement sur les numéros tarifaires et de drawback renfermant les termes 'fabriqué au Canada' ou 'non fabriqué au Canada' mais aussi sur tout autre numéro que la Commission estime pertinent pour son enquête".

Les numéros tarifaires référés spécifiquement à l'attention de la Commission sont énumérés dans deux annexes à la lettre de référence. Parmi les numéros figurant à l'Annexe I, pour lesquels un rapport est demandé pour le 1^{er} janvier 1983 au plus tard, se trouve le numéro 28105-1, se rapportant à la brique réfractaire, n.d., d'une catégorie ou espèce non produite au Canada, lorsqu'elle est importée pour certains usages spécifiques. Une audition publique se rapportant à cet item ainsi qu'à d'autres numéros tarifaires référés (collectivement désignés comme le groupe 6: marchandises diverses I, Renvoi n° 157) fut tenue à Ottawa le 8 décembre 1980.

Quelque temps après le lancement de cette étude, mais avant l'audience publique de décembre 1980, la Refractories Association of Canada s'est mise en rapport avec le ministre des Finances pour obtenir une révision complète de la liste tarifaire se rapportant aux briques réfractaires et autres produits réfractaires. Du fait que cette demande empiétait sur le Renvoi n° 157, il a été décidé lors de discussions entre le ministre des Finances et la Commission du tarif que la Commission prendrait note des représentations de l'Association et présenterait un rapport intermédiaire à une date antérieure, pour que le ministre puisse prendre ultérieurement toutes mesures jugées nécessaires. Lorsqu'on a découvert que certains litiges concernant l'administration des numéros existants se rapportant aux briques réfractaires devaient être présentés devant la Commission siégeant en tant que tribunal quasi-judiciaire plutôt qu'en sa capacité consultative, dans l'appel n° 1571 (Brsco Canada Ltd. vs. le Sous-ministre du Revenu national, douanes et accise), il a été décidé de reporter le rapport intermédiaire jusqu'à ce que l'appel ait été entendu et qu'un jugement ait été prononcé. L'appel a été entendu le 16 juin 1981 et la déclaration de la Commission porte la date du 11 août 1981. Au moment de la rédaction du présent rapport, le délai d'appel de cette décision sur toute question de droit à la Cour Fédérale du Canada n'est pas expiré.

LES PRODUITS

Le terme "brique réfractaire" est utilisé pour décrire les produits réfractaires rigides faits à partir d'argile réfractaire ou d'autres mélanges à base minérale ou d'autres matériaux présentant un point de fusion élevé. Les produits réfractaires sont fabriqués en cinq étapes: Les matériaux sont

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RENVOI NO 157

RAPPORT INTÉrimAIRE D'UNE ENQUÊTE

par la

COMMISSION DU TARIF

portant sur

LES NUMÉROS TARIFAIRES VISANT LES MARCHANDISES FABRIQUÉES/NON FABRIQUÉES AU CANADA BRIQUE RÉFRACTAIRE ET PRODUITS CONNEXES

Ce rapport, préparé suite à une référence du ministre des Finances et signé par les membres de la Commission du tarif le 22 septembre 1981, est remis au ministre pour présentation au Parlement en vertu de l'article 6 de la Loi sur la Commission du tarif.

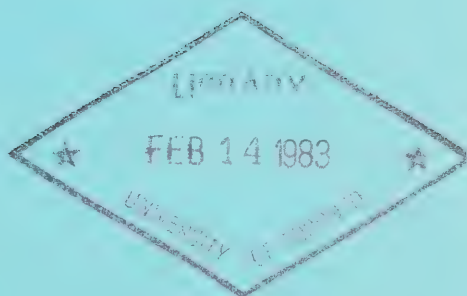


NUMEROS TAIFABIES VISANT LES
MARCHANDISES FABRIQUES/NON-
FABRIQUES AU CANADA
BRIQUE RETRACTAIRE ET PRODUITS
CONNEXES

CAI
FN 55
-81R57A



TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA PHASE I



REFERENCE
157

A REPORT BY
THE TARIFF BOARD

REFERENCE NO. 157

**A REPORT OF AN INQUIRY
by the
TARIFF BOARD
respecting
TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA
PHASE I**

This report, made pursuant to a reference by the Minister of Finance and signed by the Board on December 15, 1982, is presented for tabling in Parliament under the provisions of section 6 of the Tariff Board Act.

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CHAPTER 1. INTRODUCTION

Terms of Reference

This volume contains the first part of a report by the Tariff Board under Reference No. 157 on the subject of tariff items covering goods made/not made in Canada. The terms of reference for this study are set out in a letter, dated August 20, 1979, from the Minister of Finance to the Chairman of the Tariff Board. The Minister's letter is worded as follows:

Dear Miss McDougall:

I am writing to direct the Tariff Board to make a study and report under Section 4(2) of the Tariff Board Act on those items in the Customs Tariff listed in Annexes I and II to this letter⁽¹⁾ under which the tariff classification of a product depends on whether or not the product is made in Canada. The scope of the Board's review should encompass not only the tariff and drawback items containing "made in Canada" or "not made in Canada" clauses but also any other tariff items which the Board considers relevant to its inquiry.

I have concluded that there is a need to review the continuing relevance of the "made/not made" items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations including the recent "Tokyo Round" of multilateral trade negotiations. Also, representations have been received from time to time regarding these items from Canadian users and producers as well as from foreign governments. Some argue that they are a cause of uncertainty for importers and foreign exporters as to the tariff treatment they can expect to receive when goods are imported into Canada since the "made in Canada" status of a product may change over time resulting in a change in the rate of duty applicable to that product. Others, while they may have concerns as to the manner in which the system operates, claim that the "made/not made" items provide a flexible system which sustains or encourages manufacturing in Canada while at the same time providing appropriate tariff relief for important Canadian industrial users who must compete in the world economy.

(1) See Appendix I, infra, p. 277.

In view of the foregoing, I am asking the Board to consider, on an item-by-item basis, what alternative tariff arrangements might be introduced and the extent to which this should be done by establishing new tariff items setting forth specific product descriptions. For products where the Board does not consider such items feasible, it should make alternative proposals. It is the intention of the Government, however, to limit, to the extent possible, the use of the "made/not made" terminology in developing new tariff designations. Moreover, it is the Government's view that the "availability" concept, as currently employed in tariff items 42700-1, 42701-1 and 41100-1⁽¹⁾ should be used only in specialized circumstances. I would, however, not preclude the Board from recommending use of "availability" criteria or the maintenance of "made/not made" distinctions for certain items if it feels this is necessary or advisable.

For tariff items covered by this reference that are "bound" in Schedule V of the GATT,⁽²⁾ I would ask the Board to take into account the way the items have been administered and to use as a tariff level reference point the final concession rates agreed to in the Multilateral Trade Negotiations. To the extent possible, the Board should not make recommendations with respect to these items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories.

I therefore request the Board to prepare a revised schedule of tariff items with recommendations as to appropriate tariff descriptions and rates of duty. For items contained in Annex I, the Board should report in sufficient time, and in any event by January 1, 1983 at the latest, to permit the Government to take a decision on its recommendations not later than January 1, 1984. For the items in Annex II, I would appreciate receiving the report of the Board as shortly thereafter as possible and in any event, no later than January 1, 1985.

Yours sincerely,

John C. Crosbie.

(1) For the nomenclature of these items, see Appendix II, infra, pp. 284-5, 287, 290.

(2) See Department of Finance, Canada, Tariff Concessions agreed by Canada in the Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (June 1979).

Scope of Inquiry

In all, 112 tariff items (including parts of ten items) have been referred to the Board for study under this reference. These items, which encompass a very broad range of goods, have been divided by the Minister into two distinct schedules, with different reporting dates - i.e. January 1, 1983 and January 1, 1985.

In order to facilitate the preparation of background material and the scheduling of public hearings, the Board decided at an early stage to review the tariff provisions falling under the inquiry on a group basis. Accordingly, seven broad groupings of tariff items were identified in relation to each of the two phases of the reference, the groupings reflecting, in a general kind of way, the end uses and/or physical characteristics of the goods in question.⁽¹⁾ As part of this grouping process, eleven of the tariff items listed in Annex II to the Minister's letter were transferred by the Board for study and reporting purposes to Phase I of the inquiry.⁽²⁾ Thus, the present report reviews 60 of the items referred to the Board, rather than the 49 items listed in Annex I.

In addition to the aforementioned tariff items, there are very many others which fall within the area of reference. Of the 112 referred items encompassed by both phases of the inquiry, 24 (of which 22 are in Phase I) comprise "made/not made" pairings, while 88 are "not made" items with no specific "made" counterparts.⁽³⁾ Although, in the case of these unpaired provisions, the tariff classifications applicable to the counterpart "made"

(1) The groupings of tariff items pertaining to Phase I of the reference are listed in the Table of Contents. The tariff items comprising Phase II have been grouped under the following heads: Group 1, Textile products; Group 2, Chemicals; Group 3, Electrical goods; Group 4, Metal goods; Group 5, Machinery, materials, parts and equipment used in the construction or equipment of aircraft and ships; Group 6, Machinery, equipment, parts and accessories used in the manufacture of motor vehicles; and Group 7, Miscellaneous goods II.

(2) The transferred items are indicated in Appendix I, infra, p. 277.

(3) For a summary review of the provisions of the tariff items falling within Phase I, see infra, pp. 34-43.

goods have not been referred directly to the Board, they clearly fall within the ambit of study, since their coverage would be affected by any change in the status of goods entering under the corresponding "not made" provisions or by the deletion of such provisions from the Customs Tariff. Again, 99 of the items referred to the Board (including 51 in Phase I of the inquiry) have specific end-use and/or end-user connotations. Since, for the most part, these provisions originated as offshoots of tariff items having unrestricted or non-specific industrial utilization requirements,⁽¹⁾ any tariff recommendations which aimed to effect a broadening or narrowing of the range of goods admissible on the basis of end-use and/or end-user qualifications would need to be formulated in the context of these wider family relationships.

Method of Inquiry

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable.

In light of the terms of reference supplied by the Minister, lack of feasibility would seem to be the main - if not the only acceptable - reason for rejecting an eo nomine approach to the problem in hand. Clearly, tariff classifications based upon specific commodity descriptions are most easily developed when the goods to be encompassed are few, simple, and broadly homogeneous in function and physical characteristics. However, many of the

(1) The tariff histories of the referred items reviewed in this report are set out in Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Background Nos. 2 to 7 (1980-81).

tariff provisions included in this reference contain descriptions of goods in general terms which comprehend a wide and highly diversified range of products, some of which are produced in Canada and some of which are not.

To carry out its mandate, the Board has sought to establish lists of relevant classes of goods covered by the referred items, together with some indication of their made-in-Canada status. At first, the Board had hoped to be in a position to compile lists based on the published and unpublished rulings, relating to the referred items, issued by Revenue Canada, Customs and Excise. However, preliminary enquiries revealed that the compilation of product information based upon such rulings would be an arduous and time-consuming task, while the degree of commodity detail recorded in the official documentation appeared generally too broad for the purpose at hand. Similar considerations precluded a detailed study of import documents. Both these approaches were, therefore, set aside with the reservation that either or both could be used at a later date, on a limited scale, if they should prove necessary.

The most easily available, readily accessible, source of information was found to be Statistics Canada import data cross-classified by tariff item and 7-digit commodity class. For each referred tariff item, a list was obtained showing all the 7-digit classes said to cover any of the imports under the item. With the assistance and advice of officials of Revenue Canada, cases of obvious misclassification were removed, leaving listed only those classes relevant to the item as a whole. For each item, the list of classes was then again reviewed to eliminate those classes which applied only to goods whose tariff classification did not depend on their made-in-Canada status. In many, but not all, items, parts are classified according to the status of the finished products and not in relation to their own status - i.e. a "made" part of a "not made" product may enter under a "not made" item. Where, however, the classification of parts depends directly on their own "made" or "not made" status, the relevant classes were retained. Certain relevant classes were eliminated where the value of imports was very small but, on the other hand, obviously relevant classes were added even if no

imports were recorded either in the base year 1978, or in 1977, which was used as a check. Certain broad n.e.s. ("not elsewhere specified") classes, in relation to which further detailed product specification would present considerable difficulties, were also eliminated.

The revised lists of commodity classes were then submitted to officials of the Department of Industry, Trade and Commerce for their review and advice respecting which classes are "made" or "not made" in Canada, and, where relevant, for the breakdown of classes between "made" and "not made" goods. In this regard, the Board also sought the assistance of representatives of manufacturers, purchasers and users of the relevant types of goods. The Board hereby gratefully acknowledges the assistance received from officials of the aforementioned government departments and members of the business community in carrying out this very necessary, but somewhat tedious, aspect of the study.

Based on these inquiries and consultations, the Board prepared provisional listings of "made", "not made" and "uncertain" classes of goods for distribution to interested parties, together with other relevant background information and statistics.⁽¹⁾ Representations or observations were invited regarding the accuracy and completeness of these listings, and parties were asked to make known their views regarding possible alternative tariff arrangements.

In order to provide some guidance in this latter connection, a general discussion paper on the issues⁽²⁾ was circulated by the Board prior to the first public airing of the reference, while, as the inquiry proceeded, the Board's staff developed and circulated draft papers setting out the various tariff options in relation to each of the referred items under review at the individual group hearings.

(1) Ibid.

(2) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Discussion Paper No. 1. Issues and Approach (November, 1979).

Public Hearing Process

A preliminary public hearing in connection with Reference No. 157 was held in Ottawa on January 16, 1980 for the purpose of providing the Board with an opportunity for discussing with the interested community the nature of the tasks to be undertaken and the possible approaches which might be adopted. Formal submissions were not invited at this time.

Subsequently, following the compilation and distribution of pertinent background material, the seven groupings of tariff items falling into Phase I of the reference were separately reviewed at a series of public hearings held between June 23, 1980 and June 22, 1981. These hearings, which were well publicized in the major national and, in some instances, local newspapers, as well as in the Canada Gazette, attracted a total of 59 briefs (excluding supplementary statements) from 48 individual companies, industry groups, and trade associations.⁽¹⁾ Six of these interested parties made submissions in respect of more than one hearing, while 21 made tariff proposals comprehending more than one tariff item or pair of tariff items. Because of the high degree of interest in natural resource development in western Canada, the Board's main hearings with respect to oilfield machinery and apparatus and mining equipment were held in Calgary and Vancouver respectively. The remaining hearings took place in Ottawa.

Subsequent to the final group hearing in relation to Phase I of the inquiry, an appreciation of the evidence was undertaken by the Board's staff. The products of this exercise were made available to interested parties in a series of staff appraisals which, in addition to ranging over material published in earlier background and discussion papers, also incorporated the results of an analysis of more recent (1979-80) import data and provided a summary review of all pertinent representations made to the Board; possible tariff solutions were set out with respect to each individual tariff item under consideration.

(1) See Appendix V, infra, pp. 339-46 for a listing of parties making submissions to the Board.

A public hearing for the purpose of receiving and reviewing observations pertaining to the subject matter of these staff appraisals was held in Ottawa between February 15 and 18, 1982. In this connection, supplementary submissions were received from 26 of the parties previously submitting briefs, while an additional 48 briefs were received from companies or associations not previously participating in the inquiry. The report which follows takes cognizance of all these representations, as well as the results of further investigations by the Board's staff, where these have been deemed necessary.

CHAPTER 2. CONCEPTUAL, ANALYTICAL AND
ADMINISTRATIVE FRAMEWORK

Made/Not Made Tariff Arrangement

Historical Perspective⁽¹⁾

The formulation of tariff provisions under which the dutiable status of commodities depends upon whether or not like goods are made in Canada has long been a feature of the Canadian Customs Tariff, although, before 1930, the device was used to a very limited degree. In 1880 only three tariff items incorporated such provisions,⁽²⁾ and in 1897 only eight. The Customs Tariff of 1907 contained 14 made-in-Canada items (including one permitting drawback of duty on "not made" galvanized wire netting when used in traps for the fisheries),⁽³⁾ while the tariff schedules for 1928 listed 25 such items.

One of the earliest tariff items to apply a made-in-Canada criterion differentiated against "lustre wools and other like combing wools such as are grown in Canada", imposing a duty of 3 cents per pound thereon⁽⁴⁾. However, prior to the 1960's, virtually all other pertinent provisions provided otherwise dutiable goods with duty-free entry, or access at preferential rates, when the goods were "of a class or kind not made in Canada". In many instances such preferential tariff treatment was linked to importation by certain specified end users and/or for certain specified end uses. Hence, with respect to goods falling under such end-use provisions, preferential tariff treatment was accorded on a restricted basis without apparent prejudice to Canadian producers.

(1) The origins and historical development of the individual tariff items falling within Phase I of the inquiry are set out in Reference No. 157. Background Nos. 2 to 7.

(2) These items related respectively to: machinery for worsted or cotton mills; bent glass for the manufacture of show cases; and combing wools.

(3) Tariff item 1020.

(4) Numbered as tariff item 390 in 1897 and as item 555 in 1907.

Several of the earliest of these provisions had a cultural or social bias, the favoured users being institutions or societies concerned with education, scientific learning or health care. Thus, the 1880 Customs Tariff provided, under authority of an Order in Council, for the duty-free entry of bent glass, such as was "not made in Canada", for the manufacture of show cases;⁽¹⁾ while the 1897 Customs Tariff made provision (under tariff items 462, 463 and 467 respectively) for the duty-free admission of:

- (i) philosophical instruments and apparatus - that is to say, such as are not manufactured in Canada, when imported for use in universities, colleges, schools, scientific societies, and public hospitals;
- (ii) skins of birds, and skins of animals not natives of Canada, for taxidermic purposes, not further manufactured than prepared for preservation;
- (iii) books, not printed or reprinted in Canada, which are included and used as text books in the curriculum of any university, incorporated college or normal school in Canada.

Privileged tariff treatment of the goods encompassed by the above provisions has continued to the present time and, indeed, in the case of textbooks and certain of the "philosophical instruments", has been extended by deletion of the "not made in Canada" criterion.⁽²⁾

Other "not made" goods favoured with duty-free entry under late-nineteenth-century provisions, comprised a somewhat odd assortment of metal products, including: iron, steel or brass manufactures imported for use in the construction or equipment of ships or vessels (presently provided for under referred tariff item 44022-1); primers for shot shells; copper rollers for use in calico printing; and rolled iron tubes, lacquered or brass covered, for use in the manufacture of bedsteads.⁽³⁾

(1) See Customs Tariff, 1880, p. 27.

(2) See tariff items 69605-1, 69900-1 and 17305-1. The goods falling under item 69605-1 (and its companion item 69610-1) were reviewed in Tariff Board, Reference No. 134. Equipment for Hospitals and Other Institutions (1968) and Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

(3) Classified in the Customs Tariff for 1897 under tariff items 542, 535, 577 and 617 respectively.

In the drastically restructured Customs Tariff of 1907 (dating from November 30, 1906), approximately half of the 13 "not made in Canada" provisions were directed, in whole or in part, at machinery, with well drilling, mining and metallurgical operations featured among the privileged end uses.⁽¹⁾ Textile machinery, partially exempted from duty for a limited period prior to October, 1880, was now brought more generally and permanently within the ambit of present concern,⁽²⁾ while provision was also made⁽³⁾ for the duty-free entry of certain newspaper printing presses "of a class or kind not made in Canada" and for the like admission of "all tools and machinery not manufactured in Canada up to the required standard, necessary ... for the manufacture of rifles for the Government of Canada". Among other "not made" provisions introduced at this time was the predecessor of item 28105-1, pertaining to firebrick - in respect of which the Board has already submitted recommendations to the Minister⁽⁴⁾ - and a provision encompassing seamless cotton or linen duck for the manufacture of hose pipe.⁽⁵⁾

No further changes of substance were made until 1924-30, when a number of new made-in-Canada items, directed especially at the mining and metallurgical sectors, were introduced. Other goods and sectors to be accorded preferential tariff treatment during this period by virtue of the application of a "not made in Canada" criterion included, by way of illustration, the following: items of equipment for use in the manufacture of motor vehicles; ozone generators or airifiers "for use in ventilating garages or automotive workshops"; internal combustion traction engines for farm use; various iron or steel shapes, sections and semi-finished products; machinery for use in the manufacture of nets for the fisheries, and needles for the

(1) These end uses were specified in tariff items 469, 461 and 462 respectively.

(2) By tariff items 467 and 468. However, a duty of 10 p.c. was maintained in respect of "not made" textile machinery, except that used "for the manufacture of twine, cordage or linen, or for the preparation of flax fibre", which was accorded duty-free admission.

(3) Under tariff items 443 and 464(a).

(4) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. An Interim Report. Fire-brick and Related Products (1981).

(5) See tariff items 281 and 524a.

repair of fish nets; machinery for use in the tanning or embossing of leather; machinery for the manufacture of metal keys for opening cans of food products; various residual categories of machinery (now provided for under tariff item 42700-1 in connection with the Machinery Duty Remission Program); materials or articles of metal for use in the manufacture of washing machines or wringers; residual categories of electrical apparatus; woven fabrics for use in the making of hat bands; blankets or blanketing for printing presses; and hospital operating equipment and supplies.⁽¹⁾ The end uses specified in these items are illuminating in the sidelights they throw on the evolutionary aspect of the Canadian economy and on the emerging life styles and social values of the times.

As another manifestation of these changes, certain goods which had formerly been granted unrestricted entry now became subject to a "not made in Canada" proviso, presumably in order to provide a degree of protection to nascent Canadian industries. Thus, general duty-free access for chronometers and compasses for ships, initially conferred in 1906, was limited in 1929 to goods "of a class or kind not made in Canada" (qualifying applications, however, being extended, at this time, to usage in aircraft),⁽²⁾ while the preferential tariff treatment accorded since 1906 to "machinery of every kind and structural iron and steel ... for use in the construction or equipment of factories for the manufacture of sugar from beet root" was similarly circumscribed (in 1933).⁽³⁾

Up to the 1930's, goods "of a class or kind not made in Canada" falling under a particular tariff item were given similar preferential treatment regardless of origin. In this decade, however, a new factor entered into the situation. This was the period in which the Ottawa Conference, intended to stimulate trade within the British Empire, was held, and also the period in which Canada accorded M.F.N. treatment to the United States, with substantial reductions in duties on goods from that country. During this period many of

(1) For the full nomenclature of these items, see Customs Tariff, 1930.

(2) Tariff item 369, renumbered in May, 1930 as item 440b.

(3) Tariff item 463, renumbered in May, 1930 as item 417.

the new "not made" items, while affording assistance to certain Canadian industrial users through reductions in duties, also attempted to encourage trade with British Preferential countries by maintaining, or even increasing, the margins of preference accorded to B.P. goods over products originating in M.F.N. countries. By 1939 there were 28 items which provided free entry to "not made" goods under both the B.P. and M.F.N. Tariffs, 36 items which conferred a margin of preference on B.P. goods, and four drawback items. There were also five items which did not themselves contain a made-in-Canada proviso, but under which the B.P. rate was reduced on "not made" goods because of commitments to Britain to maintain certain margins of preference on such goods.

Most of the pre-war items were retained with the coming into force of the GATT in the post-war era but the margins of preference tended to be reduced. Another development of the period was the creation of paired tariff items, one of which covered certain goods when "of a class or kind made in Canada", while the other applied to the same goods when "of a class or kind not made", thus avoiding detailed repetition in the listing of commodities. This device was used principally in revising the schedules applicable to goods used in discovering, exploiting and processing the products of the mining and oil industries, subsequent to Reference No. 130.⁽¹⁾

As a result of the Kennedy Round, effective January 1, 1968, three major "not made" provisions disappeared from the Customs Tariff. The "not made" arrangement applicable to machinery n.o.p. ("not otherwise provided for") was replaced by the "availability" criterion under the Machinery Duty Remission Program. The preferential tariff treatment for chemicals of a kind not produced in Canada, and a general free-entry provision (under the B.P. and M.F.N. Tariffs) for materials of a kind not produced in Canada used in the plastics industry, were also both abolished. These latter two changes arose out of the Tariff Board's report on Reference No. 120.⁽²⁾ Some of the

(1) Tariff Board, Reference No. 130. Machinery and Equipment Used in the Mining Industry and in the Oil and Gas Industries (1963).

(2) Tariff Board, Reference No. 120. Chemicals (1966-67).

flexibility of the "made/not made" system was retained for these goods through the introduction of section 12 of the Customs Tariff, on which are based the present Chemicals and Plastics Tariff Reduction Orders. Generally speaking, favourable treatment under this authority has tended to be limited to goods which are of a kind not produced in Canada, but made-in-Canada status is, in this respect, no longer a legal criterion.

The 112 tariff items referred to the Board for study in the present inquiry did not include every "made/not made in Canada" provision in the Customs Tariff at the time the reference was initiated. Excluded were two residual ("n.o.p.") items relating to diesel and semi-diesel engines, where the M.F.N. duty differences applying to the "made" and "not made" goods have now been phased out,⁽¹⁾ and two "n.o.p." camera items, which have since been amalgamated.⁽²⁾ Part-item 69605-1, relating to utensils, instruments and other apparatus for teaching or research purposes, was converted from a "class or kind" approach to an "availability" formula in July, 1981.⁽³⁾ There remains one of the very earliest of the "not made" provisions, designed, like the forerunner of item 69605-1, to advance knowledge and understanding⁽⁴⁾ - viz: part-item 69900-1, pertaining to the skins of birds and animals "not natives of Canada" for taxidermic use. In addition, since the reference was received, nine new items applying to fruits and vegetables "of a class or kind grown/not grown in Canada" have been introduced into the Customs Tariff, following recommendations made by the Board in connection with Reference No. 152.⁽⁵⁾

(1) Tariff items 42815-1 and 42816-1 (see infra, p. 175).

(2) Tariff items 46205-1 and 46210-1 (see infra, p. 237).

(3) See Customs Memorandum D49-33, July 1, 1981, superseded by D10-11-10, July 1, 1982. Tariff item 69605-1 was reviewed by the Board in Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

(4) See supra, p. 10.

(5) Tariff Board, Reference No. 152. Fresh and Processed Fruits and Vegetables (1977-78). The tariff items in question are: 8747-1, 8748-1, 8906-1, 9007-1, 9222-1, 9223-1, 10503-1, 10523-1 and 10609-1.

Definitional and Administrative Considerations

The "not made in Canada" principle has never had general applicability in the sense that goods are allowed to enter free of duty simply because like goods are not made in Canada. Many goods are dutiable even though comparable products are not produced domestically, in many instances a hold-over from the time when the Customs Tariff was the main source of revenue. At the same time, goods may be entitled to free entry without a "not made" distinction, even though similar articles are domestically produced.

The "made/not made" criterion did, however, have universal application with respect to special or dumping duties as they existed prior to the coming into force of the Anti-dumping Act. Under section 6 of the Customs Tariff, repealed in 1968 with the exception of subsection 10, these duties were applicable, when appropriate, to all goods "of a class or kind made or produced in Canada", and "not made" goods were exempt. Section 6 of the present Customs Tariff (the former subsection 10) defines the term "made in Canada" as follows:

For the purpose of this Act goods shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may provide that such quantities, to be substantial, shall be sufficient to supply a certain percentage of the normal Canadian consumption and may fix such percentages.

Under this authority, in 1936, the Governor in Council ordered that:

Articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply ten percentum of the normal Canadian consumption of such article is so made or produced.⁽¹⁾

Although this regulation was originally introduced in connection with the determination of liability for anti-dumping duty, it was applied in the administration of the "made/not made" tariff provisions, and was retained for

(1) Order in Council P.C. 1618, 2nd July, 1936 (see Customs Memorandum D11-1-1, July 1, 1982).

this purpose after the legislative changes of 1968, when the made-in-Canada status of the goods ceased, for most intents and purposes, to be a deciding consideration in establishing whether or not special or dumping duties should be imposed.⁽¹⁾

The only place where a statutory definition of "not made in Canada" can be found is subsection 7 of the Customs Tariff, dealing with the imposition of additional duty in respect of subsidized goods of a class or kind made or produced in Canada. This states:

Goods may be deemed to be of a class or kind not made or produced in Canada where similar goods of Canadian production are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

Thus, a good is deemed to be "of a class or kind made in Canada" when produced and offered in the ordinary course of trade in quantities equal to at least 10 per cent of Canadian consumption.

It might seem to follow from the law that an investigation should be carried out at the time of importation to determine whether or not Canadian producers are in a position to supply the necessary 10 per cent of the domestic market. However, such an inquiry is usually undertaken in detail only when the initial ruling of Customs and Excise, based on a more cursory investigation, is disputed, or when a change in an existing ruling is contemplated. In these cases, an analysis is carried out to establish the actual size of the market (production plus imports less exports) and the amount produced in Canada.

(1) However, this criterion continues to be applied in the case of pharmaceutical products, the administrative regulations providing that when such products are "of a kind not made or produced in Canada", they should be exempt from the application of the Anti-dumping Act (see Customs Memorandum D14-1-1, July 1, 1982).

However, it is clear that, in some instances, goods which might theoretically qualify for a "made-in-Canada" classification under existing operational parameters have not been so registered. Doubtless, some such omissions can be explained by a lack of knowledge on the part of domestic manufacturers regarding the existence of the pertinent tariff provisions, or of the administrative regulations pertaining thereto, while other exceptions can be attributed to a simple failure - due to inertia or a discounting of the benefits to be gained thereby - to pursue a "made" ruling. In certain instances, however, it appears that domestic manufacturers have held back on account of a fear of black-listing by customers faced with the prospect of having to pay more for competing foreign products. In yet other cases, manufacturers - perhaps mistakenly, at times, in view of the implication of a loss of protection on value added⁽¹⁾ - have been unwilling to relinquish duty-free access to imported parts in exchange for protection against competing finished products.

The classification of goods under "made" or "not made" provisions, or the refusal of such classification, is subject to appeal to the Tariff Board. Generally speaking, the Board has taken the position that, while it will rule whether a "made" or "not made" item might be applicable, the actual determination of made-in-Canada status, i.e. whether the percentage requirement has been met, is usually referred back to the Deputy Minister of National Revenue for Customs and Excise. The Board has not hesitated to rule when goods may be considered to be of the same, or of different, classes because of use or specification and, on occasion, to define the limits of a class by confirming or specifying appropriate criteria.

To complicate the issue further, the words "of a class or kind made/not made in Canada" are not precisely reproduced in all of the tariff items referred to the Board for study, and the presumption is that administrative practice by Customs and Excise will have been modified, to some extent, in order to accommodate the actual wording of the pertinent provisions. Thus, of the 112 referred items, 93 incorporate the aforementioned clause, while 19

(1) However, see infra, pp. 20-1.

have variants thereon,⁽¹⁾ with the word "produced" being used as an alternate to "made" in a number of instances and with "types or sizes" and "colours and/or textures" being variously substituted for "class or kind". Whereas, there would appear to be no problem in equating the word "produced" with "made", the concept of "types or sizes" or "colours and/or textures" suggests an altogether narrower construction than "class or kind". Likewise, the phrase "when"⁽²⁾ not made in Canada", which appears in two of the referred items as a means of accommodating a changing domestic production situation, supposes the need for a higher degree of product refinement and administrative flexibility than one might look for in the interpretation of the more traditional "not made" phraseology.

There has also been some variation, over time, in the interpretation of the phrase "class or kind", particularly as opposed to "kind" when used alone, as in a number of items relating to chemicals and products of the chemical and allied industries. The phrase "class or kind" has been construed both disjunctively and conjunctively at different times. In more recent years the tendency has been to consider "class" a broader term than "kind". The latter, in the case of chemical products, has been held to require identical chemical composition. Thus, it is theoretically possible for a product to be of a kind "not made" but of a class "made". In other words, to be "of a class or kind not made", the product must be of neither "a class" nor "kind" made in Canada.

However, it would be well to recognize both from the viewpoint of the Department and the Board that there have been real difficulties in defining with precision what constitutes "class or kind". Justice Thorson, in a 1957 Exchequer Court case, summed up the problem in the following manner: "The

(1) In the 112 items referred to the Board, the forms of wording and their frequency are as follows: "of a class or kind not made in Canada" (81); "of a class or kind made in Canada" (12); "of a kind not produced in Canada" (6); "of types or sizes not made in Canada" (5); "of a type not made in Canada" (3); "when not made in Canada" (2); "of a class or kind not produced in Canada" (1); "of a size not made in Canada" (1); "of colours and/or textures not produced in Canada" (1).

(2) Our underlining.

words 'of a class or kind not made in Canada' are general terms appearing frequently in the Customs Tariff and it is not possible to lay down any single criterion of general application."⁽¹⁾

Treatment of Parts

In Phase I of the reference there are only eight tariff items under which no special provision is made for parts of the named goods.⁽²⁾ Although four of these eight items pertain to engines,⁽³⁾ there is a strong presumption that parts, or components, are likely to be of especial importance in respect of goods, such as machinery and many types of apparatus, which are manufactured by an assembly process. Thus, a review of the various commodity classes entering under the referred oilfield equipment provisions reveals more than half, in terms of the value of imports, with a "parts" appellation. Moreover, many of the remaining classes cover goods such as gears, valves, chain, pumps and forgings, which may function as parts of other non-identified equipment.

The provision for parts has not always been a major element in the "made/not made" tariff arrangement. Indeed, many of the early "not made" items contained no provision at all for parts, or catered only for "complete" parts. With the passage of time and, presumably in response to pressure from interested sections of the business community, new provisions for parts were introduced, and existing provisions were widened. Thus, not only do 79 of the 112 referred items presently provide specifically for parts, but in only ten instances (eight being in Phase I) do these parts now have to be "complete".

However, as already indicated,⁽⁴⁾ the classification - and hence, the dutiable treatment - of parts is not the same under all of the referred provisions. In 29 instances (14 being in Phase I) classification hinges upon

(1) Tariff Board Reports, Vol. 1, 1937-1956, p. 188.

(2) There are 25 such tariff items in Phase II. In addition, there are a further six items in the two phases under which the principal goods are themselves described as "parts", "materials", or "articles ... for use in the manufacture of".

(3) The remaining four items pertain to paper or fibreboard, fire-brick, and iron or steel sections or shapes.

(4) Supra, p. 5.

whether or not the parts themselves are "of a class or kind made/not made in Canada". In another 45 instances (36 being in Phase I) the classification of the parts as "made" or "not made" depends, not upon the made-in-Canada status of the parts themselves, but upon the dutiable status of the parent goods. In those instances where the classification of the parts is independent of the classification of the main goods, the made-in-Canada status of the parts is obviously a question for the Board to investigate directly. On the other hand, the Board interprets its terms of reference as indicating that it is not required to - and, indeed, in the normal course of events, should not - adjudicate upon the made-in-Canada status of parts in respect of those tariff provisions under which the classification of parts follows that of the principal goods. The Board feels that it has not been called upon to recommend changes in the relationship between the parent goods and parts, and only in exceptional circumstances has it been prepared to consider doing so. Hence, at various places in the background material circulated by the Board, statements such as the following occur: "the Board is not concerned with the made-in-Canada status of the parts", and "the made-in-Canada status of the parts is not a pertinent issue".

However, the tariff relationship between the parent goods and parts notwithstanding, there is no doubt that the dutiable treatment of imported parts (as distinct from principal goods) is viewed by a substantial proportion of interested parties as comprising the issue of major concern in the present context. Among those petitioning the Board in this regard have been Canadian manufacturers of components unhappy about the fact or prospect of duty-free entry of competing goods. Obversely, preferential tariff treatment of parts has been sought by some domestic producers who import most of their material inputs and export much of their output. For such producers, protection of the home market may be a marginal benefit, willingly conceded in exchange for unrestricted access to low-cost materials and components. While the latter objective may be achieved indirectly through the use of provisions for duty drawback,⁽¹⁾ those exporters making representations to the Board appeared,

(1) Under section 275 of the Customs Act, the Governor in Council may allow for drawback of duty "in respect of materials used in, wrought into or attached to goods exported, or in respect of materials (not to include fuel or plant equipment) consumed in the manufacture or production of any such goods".

not surprisingly, to favour the more direct and less time-consuming arrangement of duty-free entry, requiring a minimum of paperwork and no cash outlay. Among other parties making submissions, a desire for the preferential duty treatment of parts was also expressed by industrial users, repairers and remanufacturers of some of the capital goods gaining entry under the referred tariff provisions. It is, of course, in the nature of most industrial capital equipment to wear out gradually, and for the operation of such equipment to be maintained through the piecemeal repair and periodic replacement of individual components of machinery and pieces of apparatus. It would appear to the Board that most of the referred items falling into the machinery schedule of the Customs Tariff have been utilized to a large extent for precisely these purposes.

Other Tariff Arrangements

Eo Nomine Approach

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable. It is clear that the prospect of a less flexible system of classification is not to the liking of all interested parties; but in view of (i) the prime purpose of this reference, (ii) the traditional acceptance of statutory authority as the essential basis for the imposition of taxes, including import duties, and (iii) the impending introduction of the Customs Cooperation Council Nomenclature (CCCN), with its strict arrangement by product divisions, some very compelling arguments might be thought necessary for such dissenting viewpoints to carry persuasive force.

Whether it will be possible for acceptable eo nomine commodity listings to be developed and, if so, how to structure them for tariff purposes, must depend in the first instance upon the success achieved in identifying and circumscribing the goods in question and in determining their made-in-Canada status. There should be little difficulty in those instances where individual product descriptions are already set out in the nomenclature of a "not made" tariff provision and all the goods classifiable thereunder are reported as being "not made". Assuming a continuation of present preferential duty treatment, the existing nomenclature could simply be retained without the qualifying clause "of a class or kind not made in Canada".

The situation becomes somewhat more complex when some or all of the goods listed in an eo nomine "not made" tariff item are reported as being "made" on the basis of the criteria adopted by the Board. From an industrial development standpoint the obvious course would be to exclude such "made" goods from the nomenclature of any new preferential (duty-free) item, and to make them dutiable, either in their own item or by allowing them to fall into other (dutiable) parts of the Customs Tariff. However, since such situations could, in certain instances, result in demands for compensation by Canada's trading partners, it is necessary to pause in order to consider what would be lost by including the "made" goods (and also any of "uncertain" made-in-Canada status) in a preferential tariff provision encompassing the "not made" related products. Obvious variables to review in this regard would include the value of imports, the ratio of "made" to "not made" goods, and the comparative levels of duty.

The above comments are predicated upon the assumption that the goods in question are known and capable of identification and enumeration. However, as already noted, many of the products encompassed by this reference fall under very general commodity descriptions (such as "machinery and apparatus for use in ...") which are of little use in providing a basis for an eo nomine approach. In certain instances, the "made/not made" provisions apply specifically to parts (q.v. items 49104-1 and 49105-1) or materials (q.v. item 43705-1). It seems clear that in cases such as these, it will not be possible to arrive at definitive eo nomine listings of all pertinent goods. It is also

unlikely that the made-in-Canada status of every commodity included in a lengthy enumeration will be known with certainty. Of course, in some instances, where reliable and reasonably complete information exists, separate eo nomine treatment might be provided in relation to one or more of the classes of goods encompassed by wide-ranging commodity descriptions.

With respect to the treatment of the bulk - if not, all - of the goods falling under these very broad provisions, various approaches might be adopted. The different possibilities have already been outlined in Discussion Paper No. 1 and set out in more detail on an individual tariff item basis in papers previously circulated by the staff. For example, if, in the light of available information, it emerges that most of the relevant goods are "made", these (and possibly some, or all, of the goods categorized as being of "uncertain" status) could be listed in a dutiable item, with all other goods being placed under a duty-free provision. One of the problems with this kind of arrangement (apart from the question of possible compensation) is the likelihood that the list of "made" goods would in some instances be very long. As a possible alternative arrangement, the "not made" goods could be listed in an eo nomine duty-free tariff item, with a basket dutiable provision being provided for the remaining goods, such goods to be unnamed and possibly made subject to duty remission when not available from domestic sources. In this way protection would be provided to any "made" goods and could readily be extended to any unlisted products not yet manufactured in Canada.

Of course, as already noted in Discussion Paper No. 1, in the case of paired ("not made" and corresponding "made") items, which are to be found mainly in the mining machinery and oilfield equipment schedules, the whole exercise of identifying products and determining their made-in-Canada status can be side-stepped by simply combining the paired provisions into a single item without any change in the existing nomenclature and applying a common rate of duty. The main problem with this approach, as was evident at the hearings, concerns the determination of duty, since any average which is struck will reduce existing protection on "made" goods and place an imposition on presently duty-free "not made" goods. Moreover, in the case of machinery

items, if it is assumed that "not made" goods are "not available", the anomalous situation is reached whereby a duty will be imposed upon general-purpose "not made" machinery when intended for one of the designated (hitherto, preferred) end uses, while the same machinery when imported for general use will qualify for duty remission under the provisions of the "availability" program.

The "Availability" Formula

Of the various alternatives to an eo nomine listing of goods, that broached most frequently by interested parties has been the "availability" concept as currently provided for in tariff item 42700-1 et al,⁽¹⁾ administered by the Department of Industry, Trade and Commerce under the provisions of the Machinery Duty Remission Program. According to the guidelines issued by the aforementioned department, goods (machinery) are "considered to be available from production in Canada if at least one manufacturer has proven

(1) The principal "availability" provision is worded as follows:

Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:

42700-1 Other than the following

1/1/87 2.5 p.c. 9.2 p.c. 35 p.c. 2.5 p.c. 9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in tariff items 42700-1 ... the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

Certain named classes of machinery and associated goods are similarly provided for in items 42700-2, 42700-3, 42700-4, 42700-5, 42700-9, 42701-1, 42701-2 and 41100-1. Apparatus, utensils and instruments for use directly in teaching or research are covered by tariff item 69605-1, administered on the basis of regulations made and implemented by the Minister of National Revenue.

capability⁽¹⁾ to manufacture machinery which, insofar as its range of physical qualities, operational characteristics and efficiency are concerned, is reasonably equivalent to the machinery for which remission is sought". Like the "made/not made" tariff prescription, the "availability" formula is attractive to some in that it permits changing situations to be accommodated through the exercise of administrative discretion; indeed, since "availability" criteria reflect not only production possibilities but also market tendencies, it is the more pliable arrangement. However, since the Machinery Duty Remission Program evolved in 1968 from earlier "made/not made" tariff provisions governing the importation of residual classes of machinery, a similar basic philosophy underlies both of these approaches; it follows, therefore, that any conceptual objections applied to the one may, in most instances, be levelled at the other.

Subsequently, there has been a high degree of interchangeability between tariff item 42700-1 and "made/not made" machinery provisions applying to the mining, oilfield and related sectors, in particular. In part, this situation would seem to stem from the fact that the end use of machinery capable of general-purpose applications, including those covered by "made/not made" provisions, is often not known at the time of importation. The closeness of the aforementioned relationship is underlined by the fact that, should any machinery-oriented "made/not made" items be deleted, the pertinent machines, together with their accessories, attachments, control equipment, tools and parts (but not other associated apparatus) would revert, in most instances, to tariff item 42700-1, and thus become subject to the Machinery Duty Remission Program. Accordingly, given the Minister's injunction that the "availability" concept should be resorted to only in "specialized circumstances" (if at all), simple elimination of the "made/not made" machinery items would evidently not provide a solution generally acceptable to the Minister.

(1) Proven capability is deemed existing in Canada where: "(a) the full range of technical and physical capabilities necessary for production of the machinery exists within the operational framework of at least one manufacturer; and (b) such facilities have in fact produced machinery demonstrating competence reasonably equivalent to that required to produce the machinery for which remission is sought".

An "availability" approach, however, is not completely ruled out. The Board can only infer the "specialized circumstances" which the Minister is prepared to concede, but these seem likely to consist primarily of those kinds of situations, already mentioned, in which a comprehensive eo nomine listing would not be feasible on account of the scale of the undertaking, the indeterminate nature of the subject area, and/or the large element of uncertainty in the information base. One may also conceive of other somewhat exceptional circumstances in which a need for flexibility may promote acceptance of the "availability" concept. Commodity areas in which there is rapid technological or economic change could conceivably provide such examples, as could areas in which the materials or products at issue have strategic importance. Goods which are model-specific inputs, or otherwise difficult to categorize as being either "made" or "not made", might also be possible candidates for "availability" treatment. Except for situations of the latter type, circumstances such as those outlined above might alternatively point to retention of a "made/not made" prescription rather than the application of "availability" criteria.

However, assuming that a duty differential is to be maintained in respect of classes or kinds of goods made in Canada and those not so made, it needs to be recognized that the use of an "availability" formula, or retention of "made/not made" provisions, would not avoid, but would continue, the need to make judgments in regard to the made-in-Canada status of individual commodities. There is also the additional consideration that the administration of "availability" provisions (by the Machinery Branch of the Department of Industry, Trade and Commerce) has until very recently been limited to machines only, albeit of a wide range, together with their accessories, attachments, control equipment, tools and parts. As already noted,⁽¹⁾ since July 1981, an "availability" formula has also been applied (by the Department of National Revenue, Customs and Excise) to certain categories of apparatus, utensils and instruments for use directly in teaching and research. If these provisions are to be further extended to encompass other goods such as electrical instruments, wood manufactures, steel products, apparatus of various kinds, and a diversity of materials, additional budgetary and manpower resources will presumably be required.

(1) Supra, p. 14.

Considerations of "Continuing Relevance"

In his letter of reference to the Board, the Minister states that "there is a need to review the continuing relevance of the 'made/not made' items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations, including the recent 'Tokyo Round' of multilateral trade negotiations". Patently, in this context, the words "continuing relevance" have a key significance, and the way in which the Board interprets this term might reasonably be expected to have a critical bearing upon the shape and outcome of its deliberations. This issue is not, perhaps, as simple and straightforward as might appear at first sight. However, useful comment would seem to start with a consideration of the raison d'être underlying the establishment of the referred tariff provisions.

Accordingly, it may be recalled that the "made/not made" tariff arrangements have long historical antecedents dating back to the latter part of the nineteenth century. The principal general aim - then and since - has been to provide otherwise dutiable goods with duty-free entry, or access at preferred rates, when "of a class or kind not made in Canada" and (in the majority of instances) when imported for certain specified uses and/or for certain specified users. Thus, with respect to goods falling under such end-use provisions, preferential tariff treatment is accorded on a restricted basis without apparent adverse effects on Canadian industry. It is to be noted that, while some of the goods at issue are highly specific in regard to industrial end uses, many - perhaps the majority - are capable of being utilized in a broad spectrum of economic sectors. Hence, there is a problem of ensuring that the preferences conferred by the relevant tariff provisions are, and will continue to be, enjoyed by those for whom they are intended.

There is no doubt that in the past, more especially in the period spanning the 1930's and early post-war years, the tariff concessions embodied in the referred items conferred considerable benefits upon importer-users. In the case of "not made" goods entering under the B.P. Tariff (whose margins of preference were maintained and, in some instances, deliberately promoted by

the "made/not made" provisions), an absolute rate advantage of as much as 27.5 p.c. could have been obtained, on occasion, in comparison with the duty applicable to "made" goods entering under the corresponding Intermediate or M.F.N. Tariff. However, in more recent decades B.P. margins of preference have been significantly eroded and, in the case of goods emanating from the United Kingdom and Ireland, will completely disappear by 1987. More largely, the progressive whittling away of import duties in the post-war years, as the result of successive rounds of multilateral trade negotiations, has substantially reduced levels of protection under the M.F.N. Tariff and by 1987, when the final concessionary rates of the Tokyo Round become effective, comparatively few of the goods presently entering under the "not made" provisions will be liable under alternative tariff items to M.F.N. rates of duty in excess of 10.2 per cent.

Viewed in terms of its impact on a user's unit production costs and profit performance, it may be surmised that a saving of 10.2 per cent with respect to the costs of selective - possibly minor - material inputs, particularly when in the form of investment goods depreciated over perhaps 20 or 30 years, will, in most instances, be very slight. The public hearings suggested that few users had given much thought to this aspect of the question; indeed, some users were apparently unaware whether the duty savings attaching to a "not made" designation were, in fact, being passed on to them by their suppliers. However, some users were apparently less concerned about the impact of duty charges on production costs than with the effect of such outgoings in aggravating problems of cash flow.

The conclusion that the benefits conferred by the "not made" tariff arrangements are, in some cases, no longer very real or very obvious would seem to be borne out by an apparent lack of interest in the future disposition of certain of the provisions under review. As indicated in Table 1, which sets out the salient features of these provisions (see pages 34-43), no submissions were received in relation to any of the goods falling under four of the 60 tariff items encompassed by Phase I of the reference, while representations made with respect to many of the remaining items impinged upon only very small segments of the pertinent commodity ranges. In the case of 15 Phase I

items (including three of those in regard to which no submissions were received) the average annual value of imports in 1979-81 amounted to less than \$1 million. However, viewed from a more global standpoint, the privileges enjoyed by users under the "not made" tariff provisions still appear to possess considerable financial worth. In the years 1979-81, goods with an average value of \$2.93 billion per annum entered under the "not made in Canada" tariff provisions coming within the scope of the present reference (of this amount Phase I items accounted for approximately \$1.32 billion). If these goods, which in the main were non-dutiable, had paid an average rate of duty of, say, 10 p.c., the yield in customs revenue would have amounted to \$293 million per annum, i.e. ten times the sum that was actually collected.

It might be argued, however, that to view the issue of "continuing relevance" solely from the standpoint of whether the advantages conferred by the "not made" tariff provisions are still worthwhile, is to place altogether too narrow a construction upon the Board's mandate in this regard, bearing in mind that the preferential treatment thereby extended to certain sections of the community has, in the last resort, to be paid for by the tax-paying population at large. Of course, the issue here is not just one relating to the incidence of taxation. There is also the broader question of economic and social priorities, and whether the preferential fiscal treatment embodied in the referred tariff provisions continues to make sense in the light of present-day national policy objectives. If the duty concessions which have been granted no longer properly reflect the goals of economic and social policy, or if such concessions have clearly ceased to be necessary to the viability or well-being of the beneficiaries, it would seem relevant to query whether the privileges in question should be perpetuated and, at a further remove, to ponder whether the national interest might not be better served by the preferment of a different body of interests. Even if, on national policy grounds, some form of special concessionary treatment may seem warranted, there is the additional question of whether - given the wide range of assistance programs and schemes sponsored or administered by government, and the limited possibilities for tariff manipulation in today's regulated international trading environment - the Customs Tariff remains the most appropriate vehicle for providing assistance, on a differential basis, to certain select groups or interests.

In the Board's view these are legitimate concerns, worthy of in-depth study, but given the time constraints which have been imposed and the absence of any positive direction from the Minister to address these issues directly, the Board has not taken it upon itself to do so. Hence, the Board's position in this regard is somewhat different from that put forward by the Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs Canada, who observed that "the Minister's letter would not seem to preclude the Board from recommending changes which entail further tariff reductions if existing tariffs cannot be justified on social grounds". In this connection, it should perhaps be noted that the overwhelming bulk of the referred tariff items pertain to industrial inputs, rather than final consumer products (items 47825-1 and 47826-1, applying to goods for the disabled, being prime exceptions in this regard), so that the opportunities for the exercise of social criteria would appear to be severely limited.

Duty Considerations

On the subject of the rates of duty to be applied to the goods falling within the scope of the reference, the Minister observes that the Board should "use as a tariff level reference point the final concession rates agreed to in the Multilateral Trade Negotiations". It is further indicated that "to the extent possible, the Board should not make recommendations with respect to these [referred] items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories".

What should constitute "relevant product categories" is left to the Board to determine. The possibilities are evidently very wide. At one extreme it might be argued, for example, that any type of machine falls into a "machinery product category", thus encompassing a very substantial proportion of the goods presently under review, while, at the other extreme, it is possible to conceptualize a product category in terms as narrow as "pumps" or "compressors". By focussing upon the Minister's use of the word "relevant" in this context it is possible to widen the options still further. The Board is authorized to review any tariff items which it considers "relevant" to this

reference; and it will be readily apparent that, insofar as the Board's recommendations might shift goods to or from other parts of the Customs Tariff, thereby resulting in changes in average levels of protection, the counterpart provisions, as well as those referred to the Board, should be brought within the ambit of study. This would manifestly be the case when some or all of the goods encompassed by an existing duty-free "not made" item are dropped from any new preferential tariff arrangement and, as a consequence, become dutiable under alternative provisions applying to like products. Clearly, the net effect of such a realignment would be to increase the overall level of protection in relation to the total of pertinent goods unless, at the same time, the rates of duty applicable to the expanded item or items were correspondingly reduced.

To estimate the tariff adjustments involved in an exercise of this kind would not appear to be conceptually difficult. However, at the practical case-study level, a summary review of the facts suggests that some formidable problems might be encountered in connection with the mechanics of such an operation. First, the pertinent rates of duty might include, not just one, but a multitude of alternative tariff provisions, some of which could prove difficult to identify, especially in relation to "parts" (which as already indicated⁽¹⁾, account for well over one half of the value of imports under some of the referred tariff items) and "materials". Secondly, an appreciation of the duty implications of reclassification changes along the lines indicated above would require the assembly and analysis of data on import values on a commodity class or individual product basis, not only in relation to the relevant referred provisions but also in respect of any other items which might be involved in the reclassification process, in order that appropriate statistical weights might be calculated and applied.

The Minister's letter states that the Board's recommendations, if implemented, should not result "in an overall increase⁽²⁾ in the levels of protection provided for in the new GATT Schedule". From this it might be inferred that the rates of duty bound under GATT have been set at levels lower

(1) Supra, p. 19-21.

(2) Our underlining.

than the M.F.N. rates applied in the pre-MTN Customs Tariff; and in the majority of instances this is so. However, reference to Table 1, indicates that, in the case of 18 of the 60 referred Phase I items, the actual M.F.N. rate of duty effective in 1979 was (and remains) lower than the GATT final (1987) concession rate. (There are also 10 such items in Phase II of the inquiry). All of these items, it might be noted, encompass goods of classes or kinds not made in Canada, and all (except one item in Phase II) presently provide duty-free entry. If the GATT final concession rates of duty had been applied to these items in 1979-81, an additional \$70.4 million per annum could have been raised in customs revenue. Of this amount, \$58.7 million would have been in connection with the import of goods falling under Phase I of the inquiry. This latter figure may be put into perspective by noting that it would have represented almost four-fifths of the customs revenue (of \$75.0 million) which would have accrued by applying 1987 duty rates to 1979-81 imports under all Phase I items, and by contrasting it with the \$39.0 million (or thereabouts) actually raised.

Thus, by pointing towards a change in the dutiable status of some of the major "not made" items under review, "a tariff level reference point" which was determined by "the final concession rates agreed to in the Multi-lateral Trade Negotiations" would, in effect, provide a substantial bonus to the revenue authorities, while protection would also be extended to Canadian producers of any pertinent goods not presently ruled to be "of a class or kind made in Canada". The privileged position of the users of these goods, however, would be undermined. On the other hand, a Board recommendation for continued duty-free entry in relation to all or any of the goods presently encompassed by these "not made" provisions, if negotiated with Canada's trading partners and subsequently written into the Statute Book, would presumably have the effect of rescinding the recent GATT binding, thereby making it more difficult for the domestic production of such goods to become established. Future import replacement would have to take place without the benefit of tariff protection or would require compensation to Canada's trading partners.

One possible solution, which would seem particularly applicable in the case of certain of the paired items, would be to have a single dutiable item listing all goods, both "made" and "not made", followed by a provision temporarily reducing the duty of the statutory item to Free in relation to any of the specified goods which the Board's studies have indicated are presently not made in Canada. Such a temporary reduction could be effected by Order in Council pursuant to section 273 of the Customs Act, provided that this section (upon recommendation by the Board) is amended to authorize temporary reductions in duty for goods other than "articles ... used as materials in Canadian manufactures", as currently specified in section 273(1). Alternatively, the Board could recommend that such temporary reductions be carried out by Governor in Council under an amended section 12 of the Customs Tariff, which currently provides for reductions of duties on chemicals and plastics items, or under a new section to that Act similar to section 12. However, it would probably be simpler, as well as more desirable, to use the authority presently available under section 17 of the Financial Administration Act, which permits the Governor in Council on the recommendation of the Treasury Board "whenever he considers it in the public interest" to "remit any tax, fee or penalty".

The tariff arrangement envisaged above would enable the GATT concessionary rates applying to the pertinent "not made" goods to be made statutory and, hence, permanent. At the same time, in the light of representations made to the Board, the notion of duty-free entry for selected goods on a temporary basis might be expected to appeal to some parties because it would permit a degree of flexibility to be exercised. Changes to the list of Free goods would be made by Governor in Council, rather than by an amendment passed by Parliament, without necessitating compensation in those instances involving the reinstatement of protection. Such changes might be made on an on-going basis or at the end of whatever temporary duty-free period is thought appropriate. Final revisions coincident with the termination of this arrangement would see the "not made" goods encompassed in a permanent duty-free eo nomine provision. It should be noted that, in the event of this arrangement not proving acceptable to the Government, it would already incorporate all of the commodity information necessary for an eo nomine alternative which would be statutory in its entirety.

TABLE 1

REFERRED TARIFF ITEMS: ANALYTICAL FRAMEWORK

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty (c)		Group No.	Brief
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
19755-1	Paper or fibreboard	Manufacture of artificial resins & plastics materials	Not Made	Free	Free	19.4	-	-	6	Yes
28105-1	Firebrick, n.o.p.	Construction/repair of furnaces, kilns or other equipment in manufacturing	Not Made	Free	(Free)	55.4	-	-	6	Yes
38002-1	Iron or steel wide-flange beams	N.A.	Not Made	\$5 per ton	Free	11.8	177(d)	-	6	Yes
38003-1	Iron or steel angles, beams, channels, zees	N.A.	Not Made	Free	(Free)	12.3	-	-	6	Yes
41001-1	(Bits, augers, drills, fishing tools, reamers, stabilizers	Exploration/drilling for water, oil, natural gas or minerals or in mining or quarrying)	Made	15 p.c.	9.2 p.c.	22.0	3,304	2,026	1, 2	Yes
41002-1			Not Made	Free	9.2 p.c.	116.1	-	10,685	1, 2	Yes
41012-1 Ex.	Conveyors & parts	Mining, quarrying/processing of ores, metals or minerals	Not Made	Free	9.2 p.c.	(66.9)	-	(6,157)	1	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Group No.	Brief
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
41013-1	(Air engines, coal-cutting machines, dust collectors, elevating platforms, flame-proof enclosed driving motors, loading machines, pumps, fans, blowers, etc.	Mining, quarrying/processing of ores, metals or minerals	Made	15 p.c.	9.2 p.c.	5.9	885	543	1	Yes
41014-1			Not Made	Free	9.2 p.c.	97.6	-	8,979	1	Yes
41021-1 Ex.	Machinery & apparatus	Handling materials to be charged into a blast/electric smelting furnace	Not Made	Free	(Free)	(19.3)	-	-	1	Yes
41022-1	(Machinery & apparatus	Refining, roasting/smelting metals, washing, screening/drying coal	Made	15 p.c.	9.2 p.c.	14.4	2,165	1,328	1	Yes
41023-1			Not Made	Free	9.2 p.c.	26.9	-	2,479	1	Yes
41026-1	(Machinery & apparatus	Producing coal gas & coke, distillation/recovery of products from coal tar or gas	Made	15 p.c.	9.2 p.c.	2.1	310	190	1	Yes
41027-1			Not Made	Free	9.2 p.c.	0.6	-	57	1	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Group No.	Brief
				Pre-MTN 1979	Conces- sion Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
41031-1	(Machinery & apparatus ( ( ( (	Recovery of particles from flue or other waste gases) at metallurgical/industrial)))	Made	15 p.c.	9.2 p.c.	2.7	400	245	1	Yes
41032-1	(		Not Made	Free	9.2 p.c.	0.9	-	80	1	Yes
41305-1	Machinery & apparatus	Preparing, manufacturing, testing/finishing of yarns, cordage & fabrics by manufacturers & scholas- tic/charitable institutions	Not Made	Free	(Free)	99.4	-	-	3	Yes
41700-1	Machinery & apparatus, complete parts thereof, & struc- tural iron & steel	Construction/equipment of factories for processing sugar from beetroot	Not Made	Free	Free	1.2	-	-	3	No
42000-1	Machines & parts thereof	Tanning/embossing leather	Not Made	Free	Free	2.8	-	-	3	Yes
42100-1	Machinery & complete parts thereof	Manufacture(rs) of clay products	Not Made	7.5 p.c.	5.5 p.c.	0.3	23	17	3	No
42600-1	Ozone generators or airifiers, parts thereof	N.A.	Not Made	5 p.c.	N.A.	0.4	20	20	3	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty (c)			Group No.	Brief
				Pre-MTN 1979	Conces- sion Rate 1987(a)		1979 MFN Rate(b)	1987 MFN			
								Rate(b)			
						\$million	\$'000	\$'000			
42761-1	(Machines & tools ( ( ( ( (	On off-highway internal combustion tractors other than certain inte- grated self-propelled machines	Made	15 p.c.	9.2 p.c.	3.9	584	358	5	Yes	
42762-1	( ( ( ( (		Not Made	Free	(Free)	40.3	-	-	5	Yes	
42765-1 Ex. (e)	Hydraulic equipment, torque converters, engine-over-axle type transmissions	Manufacture of road graders or scrapers	Not Made	Free	(9.2 p.c. 10.2 p.c.)	(8.3)	-	(810)(f)	5	Yes	
42865-1(e)	Diesel & semi-diesel, natural gas, L.P.G. & internal combus- tion engines	Manufacture of electricity generating sets	Not Made	Free	(9.2 p.c.)	27.2	-	2,499	4	Yes	
42875-1(e)	Gasoline internal com- bustion, water- cooled engines	Manufacture of portable air compressors & concrete mixers	Not Made	Free	(9.2 p.c.)	0.1	-	6	4	Yes	
42880-1 Ex. (e)	Diesel engines	Manufacture of plate type vibratory compactors	Not Made	Free	(9.2 p.c.)	(0.0)(g)	-	(1)	4	Yes	
42885-1(e)	Diesel engines	Manufacture of portable crushing/screening plants	Not Made	Free	(9.2 p.c.)	0.0(g)	-	4	4	Yes	

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Group No.	Brief
				Pre-MTN 1979	Conces- sion Rate 1987(a)		MFN Rate(b)	MFN Rate(b)		
						\$million	\$'000	\$'000		
43150-1	Geophysical instru- ments & equipment	N.A.	Not Made	Free	Free	18.3	-	-	7	No
43155-1	Photogrammetric instruments & equipment	Interpretation of photo- graphs & preparation of maps/plans from photos	Not Made	Free	Free	3.2	-	-	7	Yes
43425-1 Ex.	Trucks of welded design with tubu- lar frame, cast steel cross members, rubber mountings, etc.	Construction of street rail- way cars	Not Made	7.5 p.c.	(7.5 p.c.)	(0.0)(g)	(3)	(3)	5	Yes
43505-1	Locomotives & motor cars for railways & parts thereof, including motive power & parts	Mining, metallurgical or sawmill operations	Not Made	Free	(Free) 15 p.c.	4.9	-	370(h)	5	Yes
43510-1	Diesel switching loco- motives, including motive power & parts	N.A.	Not Made	10 p.c.	(10 p.c) 10 p.c.	0.3	28	28	5	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty (c)		Group No.	Brief
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
43705-1	Materials, including all parts	Construction/repair of railway signal systems	Not Made	Free	Free	16.9	-	-	5	Yes
43710-1	Copper oxide, zinc, alkaline electrolyte, primary (wet) cell batteries	For railway signal systems	Not Made	Free	Free	0.0(g)	-	-	5	Yes
43864-1 Ex.(e)	Unserviceable parts of internal combustion engines ("cores")	Remanufacture of electric starter motors, generators or alternators	Not Made	Free	(9.2p.c.)	(8.4)	-	(777)	4	Yes
44025-1	Diesel & semi-diesel engines	Construction/equipment of ships or vessels	Not Made	Free	(Free)	83.4	-	-	4	Yes
44028-1	Chronometers & compasses, & parts thereof	For ships or aircraft	Not Made	Free	Free	2.6	-	-	7	Yes
44125-1	Guns & rifles	N.A.	Not Made	7.5 p.c.	5.5 p.c.	29.6	2,223	1,630	6	Yes
44210-1	Rotors, blade diaphragms, spindle discs, shafts & blades, wholly or chiefly of metal	Repair/remufacture of gas or steam turbines & parts thereof (by turbine manufacturers)	Not Made	Free	Free	5.1	-	-	4	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Group No.	Brief
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
44315-1	Automatic pilots, thermostatically- or hydrostatically-operated controls, parts thereof	Manufacture of gas water heaters	Not Made	5 p.c.	Free	0.0(g)	2	-	7	No
44320-1	Gas control devices, n.o.p.	With gas-fired apparatus used for cooking, heating or refrigerating	Not Made	5 p.c.	Free	9.3	465	-	7	Yes
44524-2	Indicating/controlling equipment	Flame-failure protection	Not Made	7.5 p.c.	5.5 p.c.	5.2	393	288	7	Yes
44530-1	Flameproof electric transformers, rectifiers, cable-connecting devices, trailing cable extensions, etc.	In mines where inflammable gases exist	Not Made	7.5 p.c.	Free	0.8	62	-	1	Yes
44532-1	Electrical instruments & apparatus of precision	Measuring altitude, temperature, depth, etc.	Not Made	7.5 p.c.	Free	224.7	16,853	-	7	Yes

TABLE 1 (CONT.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty (c)		Group No.	Brief
				Pre-MTN 1979	Conces- sion Rate 1987(a)		MFN Rate(b)	MFN Rate(b)		
				7.5 p.c.	5.5 p.c.	\$million	\$'000	\$'000		
44725-1	Well points, well screens, well strainers, pitless well heads	N.A.	Not Made			0.8	62	46	1	Yes
46111-1 Ex.	Parts of scales	Conversion/modification to metric measure of scales used in retail operations	Not Made	Free	(10.2 p.c.)	(0.4)	-	(41)	7	Yes
46115-1	Automatic scales or weighing machines	In Canadian manufactures	Not Made	Free	(Free)	7.6	-	-	7	Yes
46218-1	Cameras & animation stands	Commercial production of animated films	Not Made	Free	Free	0.3	-	-	7	Yes
46246-1	Cinematograph & motion picture cameras & camera blimps, optical & magnetic sound equipment, dollies, booms, editing equipment, etc.	Commercial production of motion pictures or animated films	Not Made	Free	Free	1.7	-	-	7	Yes

TABLE 1 (CONCL.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Group No.	Brief
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
49210-1	(Machinery & apparatus	Distillation/recovery of)	Made	15 p.c.	9.2 p.c.	\$million	\$'000	\$'000		
	(	products from natural gas)								
49211-1	(		Not Made	Free	9.2 p.c.	6.2	926	568	2	Yes
49215-1	(Machinery & apparatus	Producing unrefined oil)	Made	10 p.c.	6.8 p.c.	15.2	-	1,400	2	Yes
	(	from shales/mining oil)								
	(	sands/extracting oil)				9.5	946	643	2	Yes
	(	from oil sands)								
49216-1	(		Not Made	Free	6.8 p.c.	18.1	-	1,232	2	Yes
						TOTALS:	1,477.1	39,005	74,996	

(a) Entries in brackets indicate earlier binding or binding of parent item(s).

(b) Figures in brackets indicate values in relation to an entire tariff item, as opposed to that part of an item falling within the scope of the reference.

(c) Applied to the average annual value of imports in 1979-81, and assuming all such imports to be subject to the M.F.N. Tariff.

(d) Based on an ad valorem equivalent of 1.5 p.c.

(e) Temporary tariff item created by Order in Council under the authority of section 273 of the Customs Act.

(f) Assuming an average rate of duty of 9.7 p.c.

(g) Positive amount of less than \$50,000.

(h) Assuming an average rate of duty of 7.5 p.c.

CHAPTER 3. REVIEW OF INDIVIDUAL TARIFF ITEMS: INTRODUCTION

In the following chapters the assembled facts and viewpoints pertaining to the tariff items under reference are set out and reviewed by the Board on an item-by-item basis within a group framework. In each instance, a narrative description of the referred and related tariff provisions is followed by a summary account of imports and a résumé of the submissions to the Board. The concluding section in regard to each item, or pair of items, contains the Board's observations with respect to the foregoing evidence and its recommended tariff solution.

It may be noted that, for obvious reasons of economy, not all of the evidence previously disseminated by the Board and its staff is presented in these reviews. For further information respecting the historical background of the referred tariff items, the rulings published by National Revenue covering the goods at issue, the commodity class detail of imports under the items, and Canadian producers of the relevant goods, reference should be made to the pertinent background papers and staff appraisals.

The Board has obviously drawn heavily upon these publications and other material circulated to interested parties, but rather than reproducing such material in its entirety, the Board has been especially concerned in the present report to draw attention to any supplementary information which has become available and to indicate any changes in the Board's thinking, particularly with respect to the made-in-Canada status of the designated goods. Where the disposition of commodity classes hitherto designated as "uncertain" is seen by the Board to have a direct bearing upon its tariff recommendations, or to be directly affected thereby, the new status of such classes has been recorded. In this regard, it should be noted that most of the commodity classes whose made-in-Canada status is listed in earlier documentation as "uncertain" have been imported under "not made in Canada" tariff provisions; in the absence of information to the contrary, therefore, these classes of goods have generally been considered by the Board as not made in Canada, and hence as eligible for preferential tariff treatment, usually duty-free entry.

On the more general issue of made-in-Canada determinations, it has already been pointed out⁽¹⁾ that the inadequacies of National Revenue rulings for product descriptive purposes have militated against the use of these rulings for made-in-Canada prescriptions in the present instance. The process whereby the Board has sought to establish the made-in-Canada status of goods falling within the ambit of the referred tariff provisions (involving the review of commodity class descriptions, first, by the Department of Industry, Trade and Commerce, and secondly, by representatives of the business community), has been described in an earlier section of this report.⁽²⁾ It may, however, need to be stressed that, with this process, an interpretation different from that understood by the customs administration has been given to the term "of a class or kind made/not made in Canada". Whereas, under National Revenue guidelines, a good is not considered to be "of a class or kind made" unless at least 10 per cent of the Canadian market can be supplied by domestic producers, in the case of the review undertaken for the Board, production on any scale in Canada has generally served to secure a "made" designation. It will be appreciated that, in practice, the main difference between these two approaches lies in the element of protection afforded to infant industry.

As already indicated,⁽³⁾ a total of 107 written submissions (excluding supplementary briefs) were received by the Board in connection with Phase I of the reference. A number of these submissions, especially in connection with tariff provisions pertaining to oilfield machinery and apparatus and mining equipment, encompassed more than one item.

The Board received one submission - from the Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs Canada - which was not specific to any particular tariff item, or items, but was more in the nature of a statement of general principles. In brief, the thrust of this representation was that "the Canadian economy should be kept as open as possible" in the interests of industrial

(1) Supra, p. 5.

(2) Supra, p. 6.

(3) Supra, pp. 7, 8.

efficiency and social welfare. With this objective in view, the Director recommended, with respect to the goods falling under Reference No. 157: first, that specific product (eo nomine) descriptions should be adopted "where it can be clearly demonstrated" that a product is made in Canada and is currently subject to an import duty; secondly, that n.e.s. ("not elsewhere specified") classes of goods not subject to import duty should be adopted in cases where (i) the product is not made in Canada, (ii) doubt exists that the product is made in Canada, or (iii) the "made/not made" provisions apply specifically to parts or materials; and thirdly, that a system should be created to provide subsidies [to whom is not specified] in the case of products currently not made in Canada "when it can be established that the subject goods can and will be made in Canada". As will be seen, in developing its recommendations, the Board has felt able to incorporate elements of the above approach in some, but not all instances, depending upon the particular circumstances of the case.

The rates of duty set out in the following pages, reading from left to right, are respectively those applicable under the British Preferential Tariff, the Most-Favoured-Nation Tariff, the General Tariff, the General Preferential Tariff, and the United Kingdom and Ireland Tariff. The rates of duty set out in the Board's recommendations have reference to an effective date of January 1, 1987. Rates under the General Preferential Tariff (GPT), currently scheduled to expire on June 30, 1984, are those which would be applicable under that tariff if it should be continued with rates calculated as at present.

In the discussion of individual tariff items, alternative classifications are given for many of the goods at issue. These are based on the best information available to the Board. However, the inclusion of such classifications is not to be taken as confirmation of their accuracy; the Board will not consider itself bound by anything said in this report in the event of any of the goods in question becoming the subject of an appeal under the appeal provisions (sections 46 to 50) of the Customs Act.

CHAPTER 4. MACHINERY AND EQUIPMENT FOR USE IN THE EXPLORATION,
HANDLING OR PRIMARY PROCESSING OF NATURAL RESOURCES

Introduction

This chapter reports on 14 of the tariff items referred to the Board (including two items referred in part only) pertaining to goods used in the search for, extraction and primary processing of underground natural resources. In rather less general terms, the goods encompass machinery and apparatus used in: water resource development; mining and quarrying; the handling, smelting, refining and other primary processing of ores, metals and minerals; the production of coal products and their derivatives; and the recovery of particles from waste gases at metallurgical or industrial plants. Nine of the pertinent items comprehend at least partial listings of specific products, thereby providing an established eo nomine basis for further refinement, as necessary. The remaining five items refer to unspecified "machinery and apparatus"; with respect to such goods, the end-use applications prescribed in the items afford the only bar to classification thereunder. Of the 14 items under review, ten comprise pairings of "made" and "not made" provisions under a common commodity nomenclature. The remaining items refer to goods "of a class or kind not made in Canada", with the corresponding "made" goods classified elsewhere in the Customs Tariff.

A total of 32 submissions (excluding supplementary briefs) were received from individual companies, industry groups and trade associations with respect to the tariff items falling into this study group. Several of the submissions, notably those emanating from the producers' and users' associations, were directed at a number of the tariff provisions under review. However, all of the individual items, or pairs of items, received some measure of specific attention. Of most widespread concern, apparently, were tariff items 41001-1 and 41002-1 (bits, augers and drills), which attracted a total of 12 submissions of a specific or general nature, including a number from the oilfield sector.

The combined value of imports under all the aforementioned items in recent years has been very substantial, totalling \$422 million in 1981, or 26 per cent of the value of imports under all tariff items in Phase I of the reference.⁽¹⁾ Even so, this figure represented a decline from the total of \$432 million recorded in the previous year. Over the period 1975-81 as a whole, the combined value of imports grew at an average rate of 17 per cent per annum, with the largest increase (56 per cent) occurring in 1979-80. During the three most recent years for which data are available (1979-81), between one-half and two-thirds of the value of all imports under the 14 pertinent tariff items were admitted under "not made" provisions 41002-1 (bits, augers and drills), and 41014-1 (air engines, coal cutters and other named goods). During the same period, imports with an average value of less than \$1 million per annum were entered under four other "not made" items - viz: 41027-1 (machinery and apparatus for producing coal gas and coke), 41032-1 (machinery and apparatus for recovering particles from waste gases), 44530-1 (flameproof electric transformers and related goods), and 44725-1 (well points, well screens, well strainers and pitless well-heads).

General Submissions

A number of the proposals received with respect to this group related to all or most of the tariff items involved, although in many instances there were also references to specific referred items and to goods covered by non-referred items. Those positions formulated prior to the preparation of the relevant staff appraisal are set forth therein in detail under each relevant tariff item. To avoid duplication, these submissions are summarized below, together with those received for the staff appraisal hearing. The reader should also refer to the general submissions listed in Chapter 5, as these are often also relevant to this chapter, particularly with respect to tariff items 41001-1 and 41002-1.

(1) See Appendix III, infra, pp. 319-20.

It will be noted that many of these submissions go beyond the scope of the reference in that they seek either: (a) to encompass in the recommended schedule goods now falling under non-referred items; and/or (b) to alter the existing relationship between goods and parts.

The views set forth in these general submissions are as follows:

The Mining Association of Canada (MAC), representing the users of many of the goods at issue, stated that in order to remain competitive, the domestic mining industry required free access to machinery and apparatus not made in Canada; only goods generally recognized as being domestically produced should be liable to duty. The Association claimed that there is presently insufficient information to permit the compilation of definitive listings of "made" and "not made" goods encompassing all pertinent items of capital equipment used in mining operations; to draw up comprehensive listings would take several years. In the meantime, it was proposed that those goods whose made-in-Canada status is presently known should be provided for in eo nomine provisions, leaving the liability to duty of other goods for determination at the time of importation. Amendments to eo nomine listings, it was suggested, could be undertaken through the use of a modified version of section 12 of the Customs Tariff.⁽¹⁾ It was further envisaged that all goods whose made-in-Canada status had not been ascertained by the beginning of 1987 would be put into basket provisions, carrying a M.F.N. rate of duty of 9.2 p.c., subject to remission in cases of non-availability from domestic sources. Finally, it was proposed by the Association that new tariff provisions should not be introduced unless a mechanism is also established for appeal to an independent body and the courts from decisions by the administrative authority.

In another submission, a group of steel producers - The Algoma Steel Corporation, Limited, Atlas Steels (a division of Rio Algom Limited), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - speaking as users of metallurgical plant and equipment, advocated that known "not made" goods

(1) See supra, p. 33.

should be listed in an eo nomine duty-free item; other (unnamed) goods should be dutiable under basket provisions and made subject to duty remission when not available from domestic sources.

The Machinery & Equipment Manufacturers' Association of Canada (MEMAC), representing the main body of manufacturers producing the goods at issue, contended that with the then-anticipated boom in mining activity, many items of mining machinery and apparatus not currently made in Canada would probably be domestically produced in the foreseeable future. It was felt that this projected opportunity for domestic industrial growth constituted, in the Minister's words,⁽¹⁾ "a specialized circumstance", calling for the flexible tariff treatment afforded by the application of "availability" criteria. More specifically, MEMAC proposed that certain general-purpose goods - notably, fans, blowers, compressors, pumps, vacuum pumps and pumping machinery, loading machines (including drag lines and power shovels), valves, engines and motors - should be placed under a separate dutiable item having general applicability, with provision for duty remission in the absence of competing Canadian production capability, while all other pertinent goods should be incorporated under dutiable end-use provisions, with similar prescriptions for duty remission.

At the level of the individual firm, five companies - viz: Canadian General Electric Company Limited (CGE), Cooper Energy Services Ltd. (jointly with Cooper Rolls Corporation), Solar Turbines Canada (a division of International Harvester Company of Canada Ltd.), C.K. Steel & Machinery (a division of TIW Industries Ltd.) and Canadian Boilers Limited - proposed that their products, being general purpose in nature, should be excluded from the end-use tariff provisions under review in this and/or the following chapter. As a second position to simple exclusion, Canadian General Electric and C.K. Steel favoured the compilation of eo nomine listings of "not made" goods with "made" goods falling into an "other than the following" provision at the bound rates of duty; alternatively, in order to eliminate problems in the identification

(1) See supra, p. 2.

of "not made" products and to add a greater degree of flexibility, CGE proposed the adoption of an approach similar to that provided for in section 12 of the Customs Tariff pertaining to chemicals and plastics, whereby all the pertinent goods would be made dutiable but with duty-free entry sanctioned, in appropriate cases, by Order in Council. The latter possibility was also regarded by Cooper Energy Services Ltd. as an acceptable alternative to its first choice of allowing the pertinent goods (in this instance, heavy industrial power and compression machinery) to revert to the general tariff items applicable thereto. As a further alternative, Solar Turbines Canada suggested retaining the basic commodity coverage of the existing end-use items, but with product descriptions updated to accommodate the current state of technology and with provision made for duty remission in the case of goods not available from Canadian sources, "subject to appeal to an independent tribunal such as the Tariff Board".

These various company proposals are summarized here, in the section of the report dealing with goods used in mining and metallurgical operations, even though most of the relevant submissions were made in the context of the Board's hearing on oilfield machinery and apparatus. In spite of possible product modifications and refinements to accommodate different industrial applications, the basic commodity categories mentioned in the aforementioned submissions - as well as many other classes of goods covered by the referred parts of the oilfield equipment schedule - are also afforded preferential tariff treatment under end-use provisions directed at mining and metallurgical applications, thereby making these provisions no less susceptible to the thrust of the representations noted above. It should, however, be further noted that while the aforementioned firms indicated a preference for the total exclusion of their products from any end-use provisions which may be designed as replacements for the referred items, the possibility of the pertinent goods being covered in a dutiable end-use item, or items, relating to general-purpose goods was not, apparently, totally rejected.

Also of relevance to the tariff items reviewed in both this chapter and the next, were submissions made with respect to the tariff treatment of parts, received from Greening Donald Co. Ltd., Wire Ropes Industries Ltd., Canada Valve Inc., and Union Carbide Canada Limited. These firms, which

manufacture in Canada, voiced a concern about the duty-free entry of competing goods when imported as parts of "not made" products; and they sought, as a general principle, to have the tariff treatment of parts separated from that of the main goods. The aforementioned companies also advanced alternative proposals for the imposition of duty upon the specific parts in which they are interested. Additionally, Union Carbide sought a broadening of the end uses of certain of the primary metal-processing equipment items in order to cover the needs of the petrochemical industry.

Tariff Items 41001-1 and 41002-1

Existing Tariff Provisions

The present text of these items, with rates of duty, is as follows:

Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;
Fishing tools, n.o.p.;
Reamers, stabilizers, and combinations thereof, n.o.p.;
All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying:

41001-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	12.8 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
41002-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., although free entry continues to be accorded to "not made" goods under item 41002-1. In these two items, parts take the classification of the main goods, regardless of their own made-in-Canada status. Consequently, the Board has concerned itself only with the products specifically named in the preamble to the two items, when imported for the purposes specified therein.

It should be noted that the aforementioned tariff provisions cover any kind of bit, auger or drill used for the prescribed purposes, except for the drilling rigs of item 49103-1, which are:

Drilling, servicing or work-over rigs, assembled or not, for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the wellhead assembly or surface oil pumping unit or when they are well-drilling machinery or apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits, but not including automotive vehicles or chassis on which they are mounted.

Subject to the foregoing exclusion, all bits, augers and drills are included, from simple hand tools to complex machines. Drills, bits and augers for other uses fall under items elsewhere in the Customs Tariff; apart from other end-use items, these include item 42700-1 (machinery, n.o.p.), with a bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program, and item 43120-1 (augers and drills, as hand tools), with a bound rate of 11.3 p.c., but with no provision for relief from duty for goods "not made" or "not available" in Canada.

The "n.o.p." provision attached to the other goods would exclude the fishing tools for oil, gas, potash or rock salt included in item 49102-1 and any reamers or stabilizers considered to be covered by items 49101-1, 49102-1 or 49103-1. In the absence of end-use provisions, these goods would also fall under item 42700-1, or, if not machines, under the items providing for unenumerated manufactures of various materials. Most of these latter items are bound under GATT at 10.2 p.c., with no provision for relief on "not made" or "not available" goods.

Because items 41001-1 and 41002-1 apply to goods used in both oil and gas exploration and other natural resource industries, the Board included them in the first two groups of tariff items for study under Phase I of Reference

No. 157. Although it appears that the goods are used primarily in the mining industry, from the available trade data it is impossible to distinguish between the products intended for use in the oil and gas sectors and those needed for mining and other natural resource development.

Imports

In 1981 the value of imports under tariff items 41001-1 ("made" goods) and 41002-1 ("not made" goods) amounted to \$28.1 million and \$122.0 million respectively. The latter figure represented a decline from the \$132.4 million recorded in 1980 but, with this exception, imports under both items showed consistent and substantial increases in each year since 1973. With respect to imports in 1981, a scrutiny of the data indicates that almost exactly one-half of the value of the goods entering under the "made" item and one-third of the value of the goods admitted under the "not made" item were coded to commodity classes containing a "parts" appellation.

Submissions

The general submissions reviewed in the introductory sections of Chapters 4 and 5 are applicable in the case of these tariff items.

Among the users, The Mining Association of Canada, in referring to individual goods, acknowledged that "drill rods" are made in Canada, while it claimed that "rock bits, rotary roller cone, steel tooth, tungsten and carbide inserts, 3 3/4 inches or more" are not so made. A detailed proposal was received from the Canadian Water Well Association (CWWA) respecting goods of concern to its members. This proposal (which is set forth in each of the relevant staff appraisals)⁽¹⁾ would have the effect of providing for three different types of water well-drilling rigs: cable tool rigs, considered by

(1) Staff Appraisal. Machinery and Equipment for Use in the Exploration, Handling or Primary Processing of Natural Resources, p. 30; Staff Appraisal. Machinery and Apparatus for Use in the Development of Resources of Oil, Natural Gas, Potash or Rock Salt, p. 30.

the Association to be not made in Canada, and recommended for duty-free entry; and, secondly and thirdly, top drive rotary rigs and table rotary rigs, both of which were acknowledged to be made in Canada and - apart from various named ("not made") parts and assemblies - considered suitable for dutiable treatment. In a separate submission, forwarded by the Minister of State, Department of Finance, Langley Water Wells Ltd. of Langley, B.C., claimed that Canadian manufacturers of drilling rigs use mostly imported parts and should, therefore, be afforded less protection.

In accord with this proposition, three of the four individual manufacturers making submissions to the Board in connection with the aforementioned tariff items, indicated a primary interest in maintaining, or obtaining, duty-free access to imported parts. One such producer was Jarvis Clark Company Limited of North Bay, Ont., which assembles tire-tracked pneumatic/hydraulic jumbo drills, using imported hydraulic type rock drills, Deutz diesel engines, transmissions, axles, torque converters and booms. In view of the provisions of items 41001-1 and 41002-1, which rule that parts shall be liable to duty not on the basis of their own made-in-Canada identity but on that of their parent goods, Jarvis Clark sought to have the "not made in Canada" categorization of its products perpetuated in order to maintain its duty-free access to parts. A similar position with respect to its own line of output, was taken by Western Rock Bit Company Limited of Calgary, Alta., which manufactures and also imports rotary roller cone drill bits, with steel tooth and carbide inserts, 3 3/4 inches or more. Sandvik Canada Corp., of Montreal, Que., as a manufacturer of rock drill products imported under tariff item 41001-1 and an importer of rotary roller bits entered under item 41002-1, supported the views put forward by The Mining Association of Canada (see above), while reserving "the right to ask for any change in the implementation of proposed provisions", in the event of being "in a position to manufacture the products presently classified as 'not made in Canada'".

In a different vein, Seismic Drills International Ltd. of Calgary, Alta., a member of the Canadian Water Well Association, in a letter to the Board, rebutted certain of the statements made previously by the CWWA, claiming that it (i.e. the firm) manufactures auger drill units, as well as top

drive air or mud rotary water well-drilling equipment having a depth capacity of up to 2,200 feet. This company did not raise the issue of protection, and it made no mention of imported parts; however, it is assumed that it would not be averse to the imposition of duty on its competitors' products. Further, in a supplementary written statement to the Board, the Machinery & Equipment Manufacturers' Association of Canada took exception to the request by Jarvis Clark for a continuation of the present duty-free treatment of the goods in which this company is interested, claiming that "the type of drill frames and the drill units and controls which Jarvis Clark imports and mounts on its vehicles are made by several Canadian manufacturers".

Conclusions and Recommendations

With respect to commodity classes designated in the pertinent staff appraisals⁽¹⁾ as either "not made" or of "uncertain" made-in-Canada status, c.c. 521-19-29 ("boring machinery, mining, nes"), c.c. 521-19-39 ("drilling machinery, mining, nes") and c.c. 521-19-59 ("boring machinery, earth, nes") have been eliminated from further consideration by the Board by virtue of the broad and indeterminate nature of their coverage. Among the remaining classes of goods, the following are now believed, in the light of additional information, to be domestically produced: c.c. 521-01-20 ("core drill, diamond type, earth/rock" - for oil and natural gas exploration); c.c. 521-01-30 ("core drill bit - diamond type", for oil and natural gas exploration); c.c. 521-03-20 ("rock drill, rotary type, carrier mounted"); c.c. 521-17-41 ("well-drilling machinery, water" - (i) cable tool rigs, capable of drilling a 6-inch diameter hole to a depth of 1,250 feet, (ii) earth augers, having a depth capacity of up to 2,200 feet). In addition, fishing tools, reamers, stabilizers and combinations thereof (commodity classes unknown) have been reported to the Board as being made in Canada.⁽²⁾

On the basis of the above information, in addition to the results of its preliminary inquiries and the submissions made by interested parties, the Board considers that, with some exceptions, the bits provided for under tariff

(1) Ibid, pp. 24-5.

(2) See Appendix IV, infra, pp. 324-38 for a listing of the Canadian producers of these classes of goods.

items 41001-1 and 41002-1 are made in Canada. However, in view of the representations made by Western Rock Bit Company Limited - the sole Canadian producer of the goods in question - it is prepared to categorize all rotary rock drill bits as "not made".

The Board considers augers to be not made in Canada except for those used to explore for water and drill water wells. The water well augers are understood to be manufactured by Seismic Drills International Ltd.

Drills of all kinds are considered to be made in Canada, except for certain rock drills and some water well-drilling machines. In this regard, only air-operated mounted percussion-type rock drills, with a piston diameter of 3 1/4 inches or less, stoper drills with a piston diameter of 3 1/4 inches or less, and jumbo drills are understood to be made in Canada. On the other hand, with respect to water well drills, only cable tool rigs capable of drilling to a depth greater than 1,250 feet are considered to be not made in Canada. The above conclusions notwithstanding, the Board, in response to the representations made by Jarvis Clark Company Limited, is prepared to include in a listing of "not made" goods, pneumatic and electric/hydraulic jumbo drills mounted on rubber-tired wheels.

The Mining Association of Canada identified drill rods in its submission as being made in Canada. These goods would be classified as parts under tariff item 41001-1 or 41002-1. The Board's general position with respect to parts has been set out in an earlier chapter;⁽¹⁾ only in exceptional circumstances will it be prepared to consider naming parts which are not presently qualified by the "made/not made in Canada" clauses. For the same reason, insofar as parts classified under items 41001-1 and 41002-1 are concerned, the Board is unwilling to accept the recommendations contained in the brief submitted by the Canadian Water Well Association, or those presented in the more general submissions reviewed above.

(1) Supra, p. 20.

On the basis of the foregoing, the Board is prepared to recommend that the following goods be considered as "not made in Canada":

Core drill bits, non-diamond type, for use in the exploration or drilling for water, oil or natural gas;
Rotary rock drill bits;
Augers other than those used in the exploration or drilling for water;
Air-operated mounted percussion type rock drills for underground use, and stoper drills: with a piston diameter in excess of 3 1/8" when for use in the exploration or drilling for oil, natural gas or water; with a piston diameter in excess of 3 1/4" when for use in the exploration or drilling for minerals;
Jumbo drills, pneumatic and electro-hydraulic, mounted on rubber-tired wheels;
Cable tool rigs for drilling water wells, capable of drilling in excess of 1,250 feet;
Coal-drilling machinery;
Parts of all the foregoing

Recognizing, however, that changing circumstances might require the list to be altered, and taking into account the fact that both existing items have a bound rate of 9.2 p.c., the Board recommends that tariff items 41001-1 and 41002-1 be replaced by the following:

41001-1 Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;
Fishing tools, n.o.p.;
Reamers, stabilizers, and combinations thereof, n.o.p.;
Parts of the foregoing;
All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying

5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.
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41001-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 41001-1:

(The goods listed above as "not made in Canada")

Tariff Item 41012-1 Ex.

Existing Tariff Provisions

This tariff item is one of four sharing a common preamble, which forms part of the nomenclature of each of the items. Of the clauses appearing specifically under tariff item 41012-1, only those underlined are relevant to Reference No. 157.

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

41012-1 Mine roof and wall supports and support systems, of metal, including yielding props, chocks, roof-bars, and chock release apparatus, but not including roof bolts or washers or nuts therefor;
Mining machines for extracting and loading minerals directly from the working face of a mine;
Trucks, tractors, or shuttle cars, self-propelled, for use exclusively underground;
Tubes or shells to be inserted in the face for breaking down coal or other minerals by the release of carbon dioxide or compressed air; pipes, tubes and fittings for use therewith;
Parts of all the foregoing;
Conveyors, of a class or kind not made in Canada;
Parts, of a class or kind not made in Canada, for conveyors

Free	Free	Free	Free	Free
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Conveyors are admissible under the item if they are "of a class or kind not made in Canada". Admissible conveyor parts must also be "of a class or kind not made in Canada", but they may be parts for either "made" or "not made" conveyors. Although goods admitted under the item are free of duty, the bound rate for the underlined clauses was set at 9.2 p.c. in the MTN.

Conveyors not qualifying for entry under this or some other end-use item would generally be classified under tariff item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Conveyors which are not machines would usually be classified as unspecified manufactures of the component material of chief value - e.g. of iron or steel

under tariff item 44603-1, with a bound rate of 10.2 p.c. Conveyor parts not covered by this or some other end-use item would be classified under any relevant eo nomine non-n.o.p. item, failing which, when regarded as parts of machines, under item 42700-1, or otherwise according to their own nature or material. In the latter case, the bound rate would usually be 10.2 p.c.

Imports

Whereas the average annual value of imports under tariff item 41012-1 amounted to some \$66.9 million in 1979-81, only a very small percentage of this amount was coded to commodity classes relating to conveyors or conveyor parts. In 1980, for example, out of a total import value of \$63.1 million, \$0.4 million represented conveyors, while \$3.1 million related to parts of conveyors. In 1981, in spite of a sharp increase in total imports to \$101.8 million, imports of conveyors and parts of conveyors decreased to \$0.01 million and \$1.7 million respectively. Not unexpectedly, imports of conveyors and conveyor parts under item 41012-1 constituted only a very small proportion of total imports of these goods under all tariff provisions.

Submissions

Representations concerning goods falling under the referred portions of this item were made by eight parties. Three of these representations were of broad application, while the remaining five pertained to conveyor belts or belting.

With respect to the former, The Mining Association of Canada, in its general proposal, conceded that conveyors for the uses covered by the item should be included in a proposed eo nomine listing of "made" goods. The Machinery & Equipment Manufacturers' Association of Canada, in seeking protection for the products of its members, proposed that the pertinent tariff provisions applying to "not made" conveyors and parts for conveyors should be deleted, thus re-locating most of the principal goods and their parts under tariff item 42700-1, where imports would be subject to the application of

"availability" criteria. In a joint company submission, Haak Industries of Oakville, Ont., and Haak Mining Equipment Limited of Sydney, N.S., indicated that they manufacture bulk handling conveyor equipment for mining purposes. Concerning their own products, the firms expressed the belief that "the only parts which are not Canadian made are the special conveyor bearing which is produced by S.K.F. and the natural rubber compounds which are used by ... Canadian suppliers to manufacture parts". The companies requested that the goods at issue should be classed as "made in Canada" and provided with duty protection.

With respect to conveyor belts and belting, Unilok, the Belting Division of Georgia Duck & Cordage Mill, Scottdale, Georgia, U.S.A., proposed that solid woven PVC conveyor belting specifically designed for use in underground potash mining be provided for as goods of a class or kind not made in Canada. The company claimed that the nature of the material, the method of construction, and the fire-resistant properties of its belts make them of a different class from the plied rubber belts produced in Canada.

However, two Canadian producers of conveyor belts/belting, namely, Goodyear Canada Inc. of Islington, Ont., and Uniroyal Ltd. of Kitchener, Ont., indicated that they make and sell competitive products suitable for the aforementioned use, while American Biltrite (Canada) Ltd. of Sherbrooke, Que., informed the Board that it was on the point of commencing production of PVC belting. The claims made by Unilok respecting the unique qualities of its belting were also opposed by Dominion Textile Inc. of Montreal, Que., a supplier of materials used in the manufacture of belts and belting. Both Uniroyal Ltd. and Dominion Textile Inc. submitted that belting (considered as "materials") falls under tariff item 61800-1 as "manufactures of rubber ... n.o.p.", while belts (classifiable as "parts") are outside the ambit of tariff item 41012-1 because they are made in Canada.

Conclusions and Recommendation

The evidence reviewed by the Board indicates that conveyors for use in mining, quarrying and related activities, as provided for under tariff item 41012-1, are presently made in Canada.

With respect to conveyor parts, the Board concludes that belts for use on conveyors, classifiable under the aforementioned item, are also domestically produced. However, on the basis of customs interpretation, it would appear that belting (as opposed to belts) is outside the scope of tariff item 41012-1. Excepting the goods mentioned in the submission of Haak Industries, the Board has no knowledge of any "not made" conveyor parts which might enter under the referred provision.

Since, with possible minimal exceptions, the goods encompassed by the referred portions of this item appear to be made in Canada, while the value of pertinent imports is comparatively small, the Board feels that the provisions for "not made" conveyors and parts for conveyors could easily be deleted from item 41012-1. The displaced products would revert, for the most part, to item 42700-1, under which duty remission could be provided for any goods not available in Canada.

Accordingly, it is the Board's recommendation that the words "conveyors, of a class or kind not made in Canada" and "parts, of a class or kind not made in Canada, for conveyors" be struck from tariff item 41012-1 and not be replaced.

The relevant item would then be worded:

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

41012-1 Mine roof and wall supports and support systems, of metal, including yielding props, chocks, roof-bars, and chock release apparatus, but not including roof bolts or washers or nuts therefor;
 Mining machines for extracting and loading minerals directly from the working face of a mine;
 Trucks, tractors, or shuttle cars, self-propelled, for use exclusively underground;
 Tubes or shells to be inserted in the face for breaking down coal or other minerals by the release of carbon dioxide or compressed air; pipes, tubes and fittings for use therewith;
 Parts of all the foregoing

Free

Free

Free

Free

Free

Tariff Items 41013-1 and 41014-1

Existing Tariff Provisions

These two items fall under the general preamble to items 41011-1 to 41014-1, worded as follows:

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

More specifically, these two items provide for the following named goods when for use for the purposes specified above:

Air engines;
Coal cutting machines;
Dust collectors;
Elevating platforms, including raise climbers, for use underground;
Flame-proof enclosed driving motors;
Loading machines, including draglines and power shovels;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Pumps, vacuum pumps, fans, blowers or compressors;
Scales for use with conveyors:

41013-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	12.8 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
41014-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under tariff item 41014-1. The classification of parts follows the classification of the named goods.

Failing placement under the above items or other end-use items, most of the goods named above would fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Air motors would be classified under 42805-1, some electric motors under 44516-1, fans under 44524-1 and scales under 46105-1. Some apparatus might fall under such items as 40000-1, 44603-1 or even 71100-1.

Imports

In 1981, the value of goods imported under tariff items 41013-1 and 41014-1 amounted to \$6.5 million and \$85.0 million respectively. The latter figure represented a very substantial drop from the \$132.9 million recorded in the previous year. In recent years, "parts" described as such (as opposed to principal products) appear generally to have accounted for nearly half of all imports judged to be properly classified under the two items.

Submissions

Eleven submissions were received by the Board having specific reference to goods falling within the provisions of the aforementioned items. Of these submissions, four put forward the viewpoints of users/importers, while the remaining seven originated with the manufacturers of the goods at issue.

Representing the main body of users, The Mining Association of Canada, within the framework of its general recommendations, proposed making provision in a dutiable tariff item for slushers (acknowledged by MAC to be made in Canada), and listing air engines, draglines, front-end loaders (size range to be determined), mucking machines, hydraulic power shovels with capacity in excess of 1.5 cubic yards, and cable power shovels with capacity in excess of 5 cubic yards as "not made" goods in a duty-free eo nomine provision.

All of the submissions received from individual users/importers with respect to the tariff provisions under review concerned various items of loading equipment. Harnischfeger P & H of Scarborough, Ont., which imports

from associated manufacturing plants in the United States electric mining shovels and other heavy equipment for mining and construction purposes, pointed out that goods falling under c.c. 521-28-64 ("shovel, power excavating, cable, over 1.5 cubic yards"), c.c. 521-28-79 ("crane, excavating type, nes") and c.c. 521-28-89 ("shovel, power, excavating, nes") were not - or were no longer - made in Canada. With regard to c.c. 521-28-54 ("shovel, power, excavating, hydraulic, over 1.5 cubic yards"), the company distinguished between power shovels of up to 300,000 pounds weight and 15 cubic yards bucket capacity, which it acknowledged were made in Canada, and larger units, which it claimed were not so made. The views expressed by Harnischfeger with respect to the made-in-Canada status of c.c. 521-28-54 were echoed by BC Coal Ltd., Vancouver, B.C., which also pointed to a bucket capacity of 15 cubic yards as providing a dividing line between "made" and "not made" goods falling under c.c. 521-36-30 ("loaders, front end, integral, excavating, wheel type"), listed in the pertinent staff appraisal as of "uncertain" made-in-Canada status.⁽¹⁾ Finally, among the importers/users, Jarvis Clark Company Limited of North Bay, Ont., in a supplementary communication to the Board, stated that while it manufactures low profile underground load haul dump (LHD) machines mounted on rubber-tired wheels [commodity classes 521-66-31 and/or 521-66-90], it would prefer that these products should continue to be treated for customs purposes as not made in Canada, in order to maintain duty-free entry for imported parts.

Putting forward the manufacturers' general viewpoint, the Machinery & Equipment Manufacturers' Association of Canada proposed placing a number of the named goods - notably, engines and motors (types unspecified), "pumps, vacuum pumps, fans, blowers or compressors", and "loading machines including draglines and power shovels" - under a separate dutiable tariff item having general applicability, with provision for duty remission based on non-availability.

(1) Staff Appraisal. Machinery and Equipment for Use in the Exploration, Handling or Primary Processing of Natural Resources, p. 38.

Among individual manufacturers, Canadian General Electric Company Limited, Toronto, Ont., advised that it "and other Canadian manufacturers manufacture motors approved by Canadian Standards Association for use in Class I, Groups C and D hazardous location, and in Class II, Groups E, F and G hazardous location". Translated into more specific commodity descriptions, the "made" goods thus encompassed are understood to comprise flameproof enclosed electric induction motors from 1 hp to 600 hp for use in underground coal mining (for which the certifying authority is, in fact, the Federal Department of Energy, Mines and Resources), explosion-proof electric induction motors from 1/2 hp to 1,000 hp, and explosion-proof electric direct current motors from 20 hp to 125 hp. Canadian General Electric also manufactures explosion-proof induction motors from 1,000 hp to 1,500 hp, which are not, however, certified for use in locations where dust - either natural, carbon black or metal - presents a hazard. In other submissions, Chicago Blower Canada Ltd. of Winnipeg, Man., supplied information indicating that it manufactures axial and centrifugal fans (c.c. 507-99-35 and c.c. 507-99-36), thus confirming the "made" status of these classes of goods, while Milltronics Ltd. of Peterborough, Ont., advised that it produces belt scales for use with conveyors (commodity class or classes unknown), which it requested should be designated as "made ... and therefore dutiable".

In making representations pertaining not only to tariff items 41013-1 and 41014-1 but also having relevance to certain of the referred provisions in the oilfield equipment schedule, Greening Donald Co. Ltd. of Hamilton, Ont., manufacturers of wire rope, reviewed several possibilities with respect to the tariff treatment of this product. Since wire rope enters as "parts" under the pertinent end-use items, and since the classification of parts thereunder follows the classification of the parent commodities, free entry is permitted in cases where the principal goods are "of a class or kind not made in Canada"; duty-free entry is also provided under related, but not referred, tariff item 49217-1, which covers walking draglines for use in the open-pit mining of oil-sands. In the company's view, a separate dutiable item should be established with specific reference to wire rope for use on mining machinery classifiable under tariff items 41012-1, 41013-1, 41014-1, 49215-1 and 49216-1. (In an earlier formulation of this recommendation, wire cloth,

wire screens and perforated metals, being parts of dust collectors, were also suggested for inclusion in such a dutiable item). In the event of this recommendation not proving acceptable, the company advocated the creation of a separate dutiable "parts" item to provide for all parts encompassed by, but not named in, the relevant tariff provisions. As a further possibility, Greening Donald indicated that it would not rule out the establishment of an all-embracing item for wire rope, carrying an average rate of M.F.N. duty weighted on the basis of the rates presently attaching to items encompassing wire rope and the values of imports entering thereunder.⁽¹⁾ In a separate submission, the views of Greening Donald respecting the tariff treatment of wire rope were echoed by Wire Rope Industries Ltd. of Pointe Claire, Que., which "as the largest manufacturer of steel wire rope in Canada claimed to have "particularly important interests in the supply of heavy products to the mining and oil exploration industries".

Union Carbide Canada Limited of Toronto, Ont., whose principal concern in the present context pertained to the duty-free entry of carbon and graphite brushes when for use in motors, compressors and generators admitted under pertinent "not made" provisions, also expressed itself in favour of divorcing the tariff treatment of parts from that of the principal goods named in end-use tariff items such as 41014-1. Failing acceptance of the notion of such a separation as a matter of general principle, the company proposed making specific dutiable provision for the aforementioned carbon and graphite brushes when for the uses indicated or, as a further option, removing the end-use provision in relation to electric shovels and draglines, thus allowing carbon and graphite brushes to be classified as parts of generators and electric motors under dutiable items 44514-1 and 44516-1 respectively.⁽²⁾

(1) The pertinent tariff items and the bound M.F.N. rates of duty pertaining thereto, effective January 1, 1987, are as follows: 40113-1 (wire rope and strand, n.o.p.), 9.2 p.c.; 40114-1 (wire rope or cable for use in commercial fishing), 6.8 p.c.; 41012-1, 41013-1 and 41014-1 (parts of machinery and apparatus for use in mining and quarrying), Free, 9.2 p.c. and 9.2 p.c.; 41105-1 (parts of self-propelled trucks for use in logging), 9.2 p.c.; 49215-1 and 49216-1 (parts of machinery and apparatus for the mining of oil-sands), 6.8 p.c. and 6.8 p.c.; 49217-1 (walking draglines and parts thereof for use in the open-pit mining of oil-sands), Free.

(2) For the nomenclature of tariff items 44514-1 and 44516-1, see Appendix II, infra, p. 305.

Conclusions and Recommendations

The Board accepts, with some slight modifications, the various proposed amendments set out in the submissions of individual companies with respect to the provisional made-in-Canada determinations of pertinent goods as indicated in the relevant staff appraisal.⁽¹⁾ Accordingly, under the general heading of "loading machines, including draglines and power shovels" the made-in-Canada status of commodity classes 521-28-64 ("shovel, power, excavating, cable, over 1.5 cubic yards"), 521-28-79 ("crane, excavating type, nes"), and 521-28-89 ("shovel, power, excavating nes") is changed from "made" to "not made", while the "made" designation previously attached to c.c. 521-28-54 ("shovel, power, excavating, hydraulic, over 1.5 cubic yards") is now withdrawn in respect of goods weighing more than 310,000 pounds or with a capacity in excess of 13.1 cubic yards. It will be noted that the latter figures, derived as a result of further investigations by the Board, represent some slight departure from the figures originally put forward by Harnischfeger P & H. With respect to other items of loading equipment, additional information provided to the Board indicates that c.c. 521-28-43 ("crane, excavating type, cable operated, walking type") was incorrectly categorized in the staff appraisal as "made in Canada", while in response to the representations of Jarvis Clark Company Limited, the Board is prepared to treat low profile underground load haul dump (LHD) machines mounted on rubber-tire wheels (c.c. 521-66-31 and/or c.c. 521-66-90) as also falling into the category of "not made" goods. Finally, with respect to loading machinery, the Board feels that c.c. 519-31-31 ("loader, log, integral tractor type, log handling") and c.c. 521-39-89 ("excavating machinery, nes") should be removed from the list of relevant products in view of the apparent misclassification of the former and the broad and indeterminate coverage of the latter.

Among other product categories, the "made" goods falling under c.c. 508-04-50 ("pumps, centrifugal, multi-stage, single suction") should have been shown to comprise only those with head up to 800 pounds per square inch.

(1) Staff Appraisal, pp. 37-41.

Also, the Board has been informed that portable air compressors in the range 1,400 to 1,600 cfm (part of c.c. 507-29-31) are, indeed, made in Canada. Lastly, under the heading of dredging equipment, the listing of c.c. 468-99-89 ("pipe fittings, nes") is also judged to be inappropriate.

With regard to commodity classes which were given an "uncertain" made-in-Canada designation in the relevant staff appraisal, the Board has subsequently learned of the domestic production of hydraulic backhoes, with a maximum weight of 321,000 pounds and a bucket capacity of 16 cubic yards, under c.c. 521-28-23 ("backhoe, hydraulic, complete integral machine").⁽¹⁾ In the case of c.c. 521-36-30 ("loader, front end, integral, excavating, wheel type"), it will be recalled that BC Coal Ltd. indicated a bucket capacity of 15 cubic yards as providing a dividing line between "made" and "not made" products, while scales for use with conveyors were given a "made" identity by Milltronics Ltd. Goods encompassed by c.c. 509-85-89 ("filtering machinery, industrial, nes") were not imported under either of the relevant tariff items in 1980 or 1981; however, in view of the overall balance of imports as between items 41013-1 and 41014-1, the Board has thought to treat this class as "not made". All remaining "uncertain" commodity classes - viz: c.c. 521-28-41, 521-28-42, 521-31-15, 521-31-19, 521-33-30, 521-35-20, 521-39-69 and 521-66-22 (all relating to items of loading machinery and equipment) and 521-39-29 (pertaining to dredging machinery) have now been categorized by the Board as "not made in Canada", either because further inquiries of outside informants have indicated this to be the case, or because the bulk of imports in recent years have entered under the "not made" tariff item (41014-1).

On the basis of the information collected and the evidence presented by interested parties, the Board considers that air engines and coal-cutting machines are not made in Canada. Likewise, it is not persuaded that there is any domestic manufacture of dredging machinery and apparatus. It recognizes that there is some Canadian production of loading machinery, but most items of equipment are seemingly not domestically manufactured at present. On the other hand, dust collectors, elevating platforms, and scales for use with

(1) See Appendix IV, infra, p. 336.

conveyors are considered by the Board to be made in Canada, and so also are certain ranges of flameproof enclosed driving motors. Among other named goods, vacuum pumps, blowers and fans are understood to be domestically manufactured in all pertinent types and sizes, while there is also a diversity of output of pumps and compressors. However, hydraulic pumps are not presently made in Canada and neither, apparently, are certain categories of air and gas compressors.

The Board recognizes that with respect to the product characteristics and made-in-Canada status of many of the goods falling under the aforementioned tariff items, the information base which has been developed still contains gaps and "grey areas". For this reason, it shares with The Mining Association of Canada the feeling that any new eo nomine arrangement should be phased in gradually, with some provision for adjustment to the listing of goods. The Board does not, however, favour the establishment of any special mechanism for appeals from the decisions of administrative authority, as proposed by MAC, since the Board believes that existing safeguards in this regard are adequate; neither does it feel that the circumstances pertaining to the tariff provisions under review are sufficiently exceptional as to justify the application of "availability" criteria, as mooted by the Machinery & Equipment Manufacturers' Association of Canada.

The Board concurs with the latter's proposal for the establishment of a separate dutiable item with respect to certain general-purpose goods falling under the referred tariff provisions in the mining equipment schedule, but defers making any recommendation in this regard until after it has completed its review of possibly relevant tariff provisions encompassing machinery and apparatus for use in the development of resources of oil, natural gas, potash or rock salt.⁽¹⁾ However, if general-purpose goods are to be accommodated elsewhere, the references to "pumps, vacuum pumps, fans, blowers or compressors", "air engines" and "flame-proof enclosed driving motors" will need to be deleted from the nomenclature of the tariff items presently under review.

(1) Infra, pp. 124-33.

With respect to the requests for changes in the tariff relationship between parts and principal goods, as put forward by Greening Donald Co. Ltd., Wire Rope Industries Ltd., and Union Carbide Canada Limited, the Board is of the opinion that, in the case of wire rope, there are reasonable grounds for making an exception to its general position in this regard. In the Board's view, wire rope is a major item of mining equipment, with a clearly distinguishable identity of its own - indeed, at one time, it was provided with its own dutiable item (410e) in that part of the tariff schedule applying to well-drilling operations;⁽¹⁾ furthermore, wire rope is costly to manufacture, requiring a very substantial outlay on plant facilities; while to its Canadian producers, tariff protection is seemingly a matter of critical concern.

The same considerations seem applicable to a much lesser extent in the case of carbon and graphite brushes. Hence, while the Board has some sympathy for the position put forward by Union Carbide, it feels that there is insufficient justification for an exception to be made in this instance. As for this company's request for a widening of the end-use applications of the pertinent referred provisions to encompass usage by the petrochemical industry, this seems to the Board to raise substantive issues of policy on which it is not, at this time, prepared to take a position, the more especially in view of the lack of opportunity for detailed study either by the Board or by other potentially affected parties.

In light of the foregoing, the Board proposes the following tariff provisions as replacements for items 41013-1 and 41014-1, recognizing that changing circumstances might require modifications to be made to the listing of "not made" goods, and taking into account the fact that both existing items have a bound rate of 9.2 p.c.:

(1) See Reference No. 157. Background No. 3: Machinery and Equipment for Use in the Exploration, Handling or Primary Processing of Natural Resources (June 1980), p. 15.

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

41013-1 Coal-cutting machines;
Dust collectors;
Elevating platforms, including raise climbers, for use underground;
Loading machines, including draglines and power shovels;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Scales for use with conveyors;
Parts of all the foregoing

5 p.c. 9.2 p.c. 25 p.c. 5 p.c. 9.2 p.c.

41013-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted until further notice, on the following goods when classifiable under tariff item 41013-1:

Coal-cutting machines;
Loading machinery, including draglines and power shovels, other than: hydraulic excavating backhoes, weighing 321,000 pounds or less, or with bucket capacity of 16 cubic yards or less; hydraulic excavating power shovels, weighing 310,000 pounds or less, or with a bucket capacity of 13.1 cubic yards or less; wheel type integral excavating front-end loaders, with a bucket capacity of 15 cubic yards or less;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Parts of all the foregoing

41014-1 Wire rope which otherwise would be classifiable under tariff item 41012-1, 41013-1 or 41013-2

5 p.c. 9.2 p.c. 25 p.c. 5 p.c. 9.2 p.c.

Tariff Item 41021-1 Ex.

Existing Tariff Provisions

This tariff item is one of four sharing a common preamble, which forms part of the nomenclature of each of the items. Of the clauses appearing specifically under tariff item 41021-1, only those underlined are in any way relevant to Reference No. 157. The item is worded:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

41021-1 Machinery and apparatus for sintering or pelleting iron ore, concentrated or not, or flue dust;
 Machinery and apparatus for use in the construction, equipment and repair of blast furnaces for smelting iron ore, such machinery and apparatus to include blast furnace fans, blowers or compressors, hot blast stoves and burners, blast piping and valves connecting the fans, blowers or compressors with the furnace, scale cars, charging and hoisting apparatus, blast furnace gas piping, cleaners and washers;
 Machinery and apparatus, of a class or kind not made in Canada, for use exclusively in handling materials to be charged into a blast furnace or an electric smelting furnace, from the dock, car or stock pile, at the smelting works;
 Machinery for the extraction of precious metals by the chlorination or cyanide processes, not including pumps, vacuum pumps, fans, blowers or compressors;
 Mercury pumps;
 Non-metallic heating elements;
 Parts of all the foregoing

Free Free Free Free Free

Free entry under the referred provision of the item is bound under GATT. The "parts" provision is relevant only in that it provides bound free entry for parts of the "not made" machinery and apparatus covered by the underlined clause, regardless of whether or not such parts are themselves of a class or kind made in Canada. In the case of machinery and apparatus excluded from the item because they are "made", parts thereof are also excluded regardless of their own made-in-Canada status.

When made in Canada, and not falling under any other end-use item, the goods described in the referred clause, if machinery n.o.p., accessories, attachments, control equipment, tools for use therewith, or their parts, would fall under item 42700-1 with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Other relevant provisions include item 61000-1 ("belting, n.o.p."), with a bound rate of 17.5 p.c., and the items providing for unspecified manufactures of various materials, mostly with a bound rate of 10.2 p.c.

Imports

In 1981 the annual value of imports under both the referred and non-referred provisions of tariff item 41021-1 totalled \$20.3 million, having fallen from \$25.3 million in the previous year. Insofar as it has been possible to determine, the value of importations under the referred extract in 1981 amounted to only \$131,000.

Submissions

Union Carbide Canada Limited, in putting forward its main position for a broadening of the end-use applications of the referred tariff provisions pertaining to metallurgical plant and equipment, noted that it has, on occasion, imported machines for stoking furnaces, apparently under tariff item 41021-1.

Conclusions and Recommendation

The Board has encountered an almost complete deficiency of definitive information respecting the nature and made-in-Canada status of goods covered by the relevant provision of this tariff item and, consequently, it sees no reason to change the provisional "made in Canada" designation previously attached to possibly relevant commodity classes⁽¹⁾.

(1) Staff Appraisal, p. 48.

In light of the foregoing, and in view of the low value of imports seemingly entering under the referred provision, the Board recommends that it be deleted from tariff item 41021-1 and not be replaced. The item would then be worded:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

41021-1 Machinery and apparatus for sintering or pelleting iron ore, concentrated or not, or flue dust;
Machinery and apparatus for use in the construction, equipment and repair of blast furnaces for smelting iron ore, such machinery and apparatus to include blast furnace fans, blowers or compressors, hot blast stoves and burners, blast piping and valves connecting the fans, blowers or compressors with the furnace, scale cars, charging and hoisting apparatus, blast furnace gas piping, cleaners and washers;
Machinery for the extraction of precious metals by the chlorination or cyanide processes, not including pumps, vacuum pumps, fans, blowers or compressors;
Mercury pumps;
Non-metallic heating elements;
Parts of all the foregoing

Free	Free	Free	Free	Free
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Tariff Items 41022-1 and 41023-1

Existing Tariff Provisions

These two items share a common heading with items 41020-1 and 41021-1. They are worded as follows:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

Agitators;
Amalgam cleaners;
Automatic ore samplers;
Fans, blowers or compressors, of iron or steel;
Classifiers;
Converting apparatus for metallurgical processes;
Feeders, mechanical;
Filters;

Flotation machines, flotation cells, and oil feeders and reagent feeders therefor;
 Furnace slag trucks and slag pots;
 Pyrometers;
 Retorts;
 Screens, including oscillating, revolving, shaking, stationary, travelling and vibrating screens, and grizzlies;
 Separators, including jigs and magnetic or electric separators and magnetic pulleys;
 Thickeners;
 Chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations;
 Machinery and apparatus for use in the refining of metals or in roasting or smelting or in the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes;
 Machinery and apparatus for use in washing, screening, drying or dry cleaning coal:

41022-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	12.8 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
41023-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41023-1. The classification of parts follows the classification of the named goods, and is not dependent on the made-in-Canada status of the parts themselves.

In the absence of classification under these or other end-use provisions, most of the relevant goods would probably fall under tariff item 42700-1, with a bound rate of 9.2 p.c., but subject to the Machinery Duty Remission Program. Some furnaces and a few other products might be classified under the electrical schedule, while some apparatus, not being machinery or used directly with machines, would be classified according to its own nature (e.g. as castings under tariff item 39101-1 or 39102-1), or as unspecified manufactures of the component material of chief value (e.g. as manufactures of iron or steel under tariff item 44603-1 - bound rate of 10.2 p.c.).

Imports

In 1981 the average annual value of goods imported under tariff items 41022-1 and 41023-1 amounted to \$16.7 million and \$29.8 million respectively, having, in each instance, approximately doubled since 1975. Parts (as opposed to complete products) appear to have accounted for almost three-quarters of all imports judged to be properly classified under both items.

Submissions

Nine of the submissions received by the Board made specific reference to goods encompassed by the tariff items under review. Among these, The Mining Association of Canada, as part of its general presentation, proposed making provision in a dutiable eo nomine tariff item for floatation cells, thickeners and vibrating screens, which the Association acknowledged to be made in Canada. Speaking as a user of some of the goods at issue, Union Carbide Canada Limited proposed broadening the end use of the aforementioned tariff provisions to cover the needs of the petrochemical industry and, in this connection, establishing a new duty-free tariff item with the following nomenclature:

Process equipment such as reactors, fired heaters, distillation and extraction columns with internals, heat exchangers, re-boilers, vessels and storage tanks, which because of the material of construction, fabrication methods, size or shape are not available from production in Canada.

Further, with respect to c.c. 505-09-30 ("furnace, metal melting/smelting/refining, non-electric"), Union Carbide claimed that rotating open-hearth furnaces and gas tonnage plant equipment (alternatively known as liquid oxygen-producing equipment or air separator equipment), used by the firm in metallurgical conversion processes, are not available from Canadian sources and should be allowed duty-free entry. Conversely as a "parts" manufacturer, the company reiterated its request, noted earlier,⁽¹⁾ for the imposition of duty on carbon and graphite motor or generator brushes.

(1) Supra, p. 67.

Representing the general position of domestic producers of the goods at issue, the Machinery & Equipment Manufacturers' Association of Canada proposed incorporating all pertinent products except "fans, blowers or compressors, of iron or steel" under a single dutiable end-use item, with provision for duty remission in the event of non-availability from Canadian sources; and secondly, placing the aforementioned excluded goods, together with various other general-purpose products, under a separate dutiable item having general applicability, with provision for duty remission in the case of non-availability.

In a separate submission, in which it was joined by Hamilton Gear and Machine Company (a division of Compro Limited), Toronto, Ont., and Wilson Machine Co. Limited of LaSalle, Que., the Gear Products Section of MEMAC represented that power transmission gears (c.c. 504-44-90) and planetary gear type speed reducers in the range 25:1 to 64:1 speed ratios and 5 to 30 horsepower (part of c.c. 504-40-85) are made in Canada. Both of these classes were given a provisional "not made" designation in the relevant staff appraisal.⁽¹⁾

In other representations, Cooper-Chapman Limited of Weston, Ont., confirmed the "made" designation attached to c.c. 509-69-89 ("foundry machinery/equipment, nes"), with particular reference to shell core machines and shell mould machines; Chicago Blower Canada Ltd. of Winnipeg, Man., informed the Board of its production of axial-type and centrifugal-type fans (c.c. 507-99-35 and 507-99-36: listed as "uncertain"); while Greening Donald Co. Ltd. requested that wire screens and wire cloth (assumed to fall under c.c. 463-52-89) should be provided with duty protection. Finally, the Canadian Institute of Steel Construction indicated its opposition to the tariff proposal submitted by Union Carbide (see above) insofar as it might relate to vessels and tanks which could be produced in Canada from imported materials, while, at the same time, it sought duty-free entry for such materials when domestic sources of supply were not available.

(1) Ibid., p. 56.

Conclusions and Recommendations

As a result of the foregoing submissions and of additional information supplied to the Board, the following commodity classes, or sub-classes, provisionally listed in the staff appraisal as "not made" or of "uncertain" made-in-Canada status,⁽¹⁾ are now understood by the Board to be domestically manufactured: c.c. 463-52-89 ("wire cloth, woven wire screening, metal, nes" - 101 mesh and finer); c.c. 468-19-30, 468-19-31, 468-19-32, 468-19-33 and 468-19-36 (various categories of steel valve, above 4 inches); c.c. 504-40-85 ("speed reducer, planetary gear type" - in the range of 25:1 to 64:1 and 5 to 30 hp); c.c. 504-44-90 ("gears, power transmission, nes"); c.c. 507-11-51 and 507-11-52 (stationary reciprocating gas compressors, 150-300 hp); c.c. 507-29-31 (portable air compressors, 1,400 to 1,600 cfm); c.c. 507-99-35 ("fans, axial type, package unit"); c.c. 507-99-36 ("fans, centrifugal type, package unit"); c.c. 508-04-50 ("pump, centrifugal, multi-stage, single suction" - with head between 600 and 800 pounds per square inch); c.c. 509-85-89 and 521-69-72 (filter presses); c.c. 509-94-49 ("separating machine, industrial, nes"); and c.c. 529-97-69 ("coal products machinery and equipment, nes").⁽²⁾

With respect to c.c. 505-09-30, in response to the submission of Union Carbide Canada Limited, the Board accepts that rotary open-hearth furnaces and air separator apparatus - excluding heat exchangers, steel vessels and tanks, and compressors of certain types and sizes⁽³⁾ - are not made in Canada.

For indications of the made-in-Canada status of the other "uncertain" commodity classes the Board has, perforce, had to rely upon an analysis of pertinent import statistics. Consequent upon an examination of these data for 1978-81, the following classes of goods are identified as "not made" by virtue

(1) Ibid., pp. 52-7.

(2) See Appendix IV, infra, pp. 324-38 for a listing of the Canadian producers of these classes of goods.

(3) See infra, p. 103.

of the preponderance of relevant imports entering under item 41023-1: c.c. 472-82-10 ("graphite and other carbon refractories, nes") and c.c. 472-99-89 ("refractories, nes") - it being assumed that either or both of these classes encompass the "retorts" named in the tariff nomenclature; c.c. 521-68-55 ("washing machines, coal, for mines"); c.c. 521-68-89 ("mining machinery and equipment, nes") - assumed, probably incorrectly, in the staff appraisal, to embrace "amalgam cleaners"; and c.c. 521-69-89 ("ore processing machinery and equipment, nes"), and c.c. 529-99-89 ("special industry machinery/equipment, nes") - to which it has not proved possible to assign any specific goods. On the other hand, in the light of the import data, a "made in Canada" identity is now attached to c.c. 521-51-29 ("milling machinery, mining/quarrying type, nes"), c.c. 521-69-69 ("metallurgical machinery/equipment, ore processing, nes"), and c.c. 705-90-90 ("laboratory instruments/apparatus, nes"). None of these class descriptions, however, is of much use for product specification purposes, although it appears that they may be related to the more general clauses in the nomenclature pertaining to metallurgical operations.

In light of the foregoing, the Board has reviewed the commodity descriptions contained in the nomenclature of the relevant tariff provisions, and concludes, without qualification, that the following goods are made in Canada: agitators, automatic ore samplers, fans and blowers of iron or steel, classifiers, mechanical feeders, filters, "flotation machines, flotation cells, and oil feeders and reagent feeders therefor", furnace slag trucks and slag pots, pyrometers, screens and grizzlies, separators and thickeners. In addition, the Board understands that most of the relevant types and sizes of compressors are manufactured in Canada. Likewise, except for rotating open-hearth furnaces and air separator equipment (which the Board considers to be "not made", apart from constituent compressors, heat exchangers, steel vessels and tanks), all of the main categories of goods covered by the following terms are understood to be available from domestic sources: "converting apparatus for metallurgical processes", "chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations", and "machinery and apparatus for use in the refining of metals or in roasting or smelting or in the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes".

Only one of the commodity classes listed in the staff appraisal under the sub-heading of "machinery and apparatus for use in washing, screening, drying or dry cleaning coal" appears to relate specifically to any of these end uses, and this class (521-68-55: "washing machines, coal, for mines") has been designated as "not made".⁽¹⁾ In the absence of information to the contrary, the Board concludes that the other goods encompassed by this sub-heading should also be given a "not made" identity.

With respect to the tariff proposals submitted by interested parties, the Board, for the reasons already given,⁽²⁾ feels unable to recommend either the extension of preferential duty treatment to petrochemical-industry users or the introduction of eo nomine descriptions of parts separate from those of the main goods.

The Board recognizes that the information which it has been able to assemble in regard to the characteristics and made-in-Canada status of goods is insubstantial in a number of places, especially those covered by the more broad ranging of the commodity headings under review. Because of this element of uncertainty, the Board is again proposing that the new tariff arrangement should provide, at least in the short to medium term, for changes to be made to the listing of goods.

In the Board's recommendations set out below, it will be noted that no provision is made for the "fans, blowers or compressors of iron or steel", named in the present nomenclature. It is proposed that these goods, together with certain other relevant, but unnamed, articles - including gears, heat exchangers, pumps and valves - should be accommodated in the new tariff provisions for general-purpose goods, to which reference has already been made.⁽³⁾

(1) Staff Appraisal, p. 55.

(2) Supra, p. 71.

(3) See infra, pp. 124-33.

The Board's recommendations with respect to these tariff items are as follows:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

41022-1 Agitators;
 Amalgam cleaners;
 Automatic ore samplers;
 Classifiers;
 Converting apparatus for metallurgical processes;
 Feeders, mechanical;
 Filters;
 Flotation machines, flotation cells, and oil feeders and reagent feeders therefor;
 Furnace slag trucks and slag pots;
 Pyrometers;
 Retorts;
 Screens, including oscillating, revolving, shaking, stationary, travelling and vibrating screens, and grizzlies;
 Separators, including jigs and magnetic or electric separators and magnetic pulleys;
 Thickeners;
 Chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations;
 Machinery and apparatus for use in the refining of metals or in roasting or smelting or the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes;
 Machinery and apparatus for use in washing, screening, drying or dry cleaning coal;
 Parts of all the foregoing

5 p.c. 9.2 p.c. 25 p.c. 5 p.c. 9.2 p.c.

41022-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 41022-1:

Air separator equipment, not including compressors, heat exchangers, steel vessels or tanks;
Amalgam cleaners;
Laboratory centrifuges;
Machinery and apparatus for use in washing, screening, drying or dry cleaning coal;
Physical properties testing/inspecting equipment, except pyrometers;
Retorts;
Rotary open-hearth furnaces;
Parts of all the foregoing

Tariff Items 41026-1 and 41027-1

Existing Tariff Provisions

Machinery and apparatus for use in producing coal gas and coke; machinery and apparatus for use in the distillation or recovery of products from coal tar or coal gas:

41026-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	12.8 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
41027-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

These two items cover all machinery and apparatus, and all parts thereof, imported to be used for the purposes specified in the preamble to the two items. The classification of parts follows that of the relevant machines or apparatus, and is not dependent on the made-in-Canada status of the parts themselves. In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41027-1.

In the absence of classification under these or other end-use items, most of the relevant machinery or apparatus would fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Some apparatus might be classified as instruments under items in the electrical schedule, as vehicles under tariff item 43910-1, or under the provisions for manufactures, n.o.p. of the component material of chief value.

Imports

Imports under both of these items have been subject to considerable fluctuation. In the case of tariff item 41026-1 ("made" goods), the value of imports amounted to \$2.6 million in 1981, compared with \$1.2 million in 1980 and \$6.7 million in 1977. For tariff item 41027-1 ("not made" goods), the corresponding figures were \$1.1 million, \$0.2 million and \$2.0 million. Parts (as opposed to finished products) appear to have accounted for approximately 70 per cent of all imports judged to be properly classified under both items.

Submissions

Among the general submissions, those from the Machinery & Equipment Manufacturers' Association of Canada and the group of five steel producers would seem to be particularly relevant. At the individual product level, C.K. Steel & Machinery, Calgary, Alta., stated that it manufactures shell or tube type heat exchangers covered by commodity class 509-40-15, whose made-in-Canada status was reported in the staff appraisal as "uncertain".

Conclusions and Recommendation

It appears that the bulk of the goods entitled to entry under the aforementioned tariff provisions are domestically produced. Thus, between 1975 and 1981, tariff item 41026-1 (providing for "made" goods) accounted for over four-fifths of combined imports under the relevant provisions, while 17 of the 22 commodity classes listed in the staff appraisal were given an unqualified "made in Canada" designation and a further three classes were recorded as "made" in part.⁽¹⁾ Moreover, with respect to the goods classifiable under the remaining "not made" or "uncertain" categories, it is now understood, in the light of information provided subsequently to the Board, that shell or tube type heat exchangers (c.c. 509-40-15), victaulic valves (part of c.c. 468-19-20 and c.c. 468-19-39), and items of "coal products machinery and equipment, nes" (c.c. 529-97-69) are manufactured in Canada.⁽²⁾ This would appear to leave "coke producing machinery" other than coke ovens (part of c.c. 529-97-62) as the only significant category of goods without any reported Canadian production.

Accordingly, a possible tariff solution would be to exclude these "not made" goods from an otherwise dutiable tariff item. However, in view of the low value of imports of coke-producing machinery under the "not made" provision, the Board deems that the duty impact of such an exclusion would be very small.

(1) Ibid., p. 63.

(2) See Appendix IV, infra, pp. 324-38 for a listing of the Canadian producers of these classes of goods.

Hence, the following arrangement appeals to the Board as being the most appropriate in the circumstances:

41026-1 Machinery and apparatus for use in producing coal gas and coke; machinery and apparatus for use in the distillation or recovery of products from coal tar or coal gas; parts of all the foregoing

5 p.c. 9.2 p.c. 25 p.c. 5 p.c. 9.2 p.c.

Tariff Items 41031-1 and 41032-1

Existing Tariff Provisions

Machinery and apparatus for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants:

41031-1 Of a class or kind made in Canada; parts thereof

1/1/82 5 p.c. 12.8 p.c. 25 p.c. 5 p.c. 9.2 p.c.
1/1/87 9.2 p.c.

41032-1 Of a class or kind not made in Canada; parts thereof

Free Free Free Free Free

These items encompass all machinery, apparatus and parts imported for the purposes specified in the preamble to the items. The classification of parts follows the classification of the relevant machines and apparatus, and is not dependant on the made-in-Canada status of the parts themselves. In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41032-1.

In the absence of this or any other applicable end-use provision, the machinery and apparatus covered by these items would largely fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Certain items of apparatus would probably be dutiable elsewhere, either as named instruments under the electrical schedule, or as manufactures, n.o.p. of the component material of chief value.

Imports

In 1979-81 the average annual value of goods imported under tariff items 41031-1 and 41032-1 amounted to \$2.7 million and \$0.9 million respectively, having increased in most years since 1976. Parts (as opposed to complete products) appear to have accounted for over two-thirds of all imports judged to be properly classified under both items.

Submissions

The only proposal to be made to the Board which was unambiguously directed at goods encompassed by tariff items 41031-1 and 41032-1 was that put forward by The Mining Association of Canada as part of its general presentation. This recommended that unconditional duty-free entry should be provided for pertinent products and parts thereof and that the coverage of the items should be extended to embrace pollution equipment. A new nomenclature was suggested, as follows:

Machinery and apparatus for use in the detection, measurement, preparation, treatment, reduction or removal of pollutants to water, soil or air at metallurgical or industrial plants, parts of the foregoing.

Other submissions possibly having some special bearing upon the aforementioned tariff items were those received from Union Carbide Canada Limited, the Canadian Institute of Steel Construction, and Greening Donald Co. Ltd., already reviewed in connection with tariff items 41022-1 and 41023-1.⁽¹⁾

Conclusions and Recommendation

The proposal made by The Mining Association of Canada would clearly encompass many more goods than are currently eligible for entry under the pertinent tariff provisions, and the Board, in view of its generally narrow

(1) Supra, pp. 77, 78.

perception of the scope of the reference, feels unable to respond favourably thereto. The Board's observations with respect to the positions advanced by other possibly interested parties are as set out under tariff items 41022-1 and 41023-1.⁽¹⁾

Most of the pertinent products would appear to be domestically produced. As already noted,⁽²⁾ the bulk of imports in recent years have been under the tariff item for "made" goods (41031-1), while all but two of the relevant commodity classes were identified in the pertinent staff appraisal as "made in Canada".⁽³⁾ The two exceptions - notably, c.c. 508-50-66 ("pump, submersible, portable, powered") and c.c. 509-85-49 ("filter element, industrial, nes") - were both given an "uncertain" designation. Following further inquiries, it is now concluded that these classes of goods are also domestically produced.⁽⁴⁾ A listing of "made" goods would, therefore, appear to provide the only possible eo nomine option in the present instance. The Board would, however, exclude from such a listing "air purification machinery/equipment, industrial, nes" (c.c. 509-79-29) - even though reported to be "made" - in view of the broad and indeterminate coverage of this class, and all pumps, which would fall under the proposed new tariff provisions for general-purpose goods.⁽⁵⁾

Accordingly, the Board proposes that existing tariff items 41031-1 and 41032-1 be deleted from the Customs Tariff and that the following nomenclature be substituted therefor:

41031-1 Machinery and apparatus for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants, namely:

(1) Supra, p. 81.

(2) Supra, p. 86.

(3) Staff Appraisal, p. 67.

(4) See Appendix IV, infra, p. 335.

(5) See infra, pp. 131-3.

Dust collection machinery and equipment;
Dust precipitators, catalytic and electrostatic types;
Filter elements;
Filtering machinery;
Centrifugal separators;
Parts of all the foregoing

5 p.c. 9.2 p.c. 25 p.c. 5 p.c. 9.2 p.c.

Under a tariff arrangement such as the above, in which the known "made" goods are specifically named, pertinent "not made" machinery would be eligible for entry and duty remission under tariff item 42700-1. Other goods now covered by items 41031-1 and 41032-1 would be variously classifiable in the Customs Tariff at whatever rates of duty are applicable.

Tariff Item 44530-1

Existing Tariff Provisions

Flameproof electric transformers, rectifiers, cable-connecting devices, trailing cable extensions with couplers moulded on, junction boxes, and complete parts of the foregoing, when of a class or kind not made in Canada and for use in mines in which inflammable gases exist

1/1/82	Free	7.5 p.c.	37.5 p.c.	Free	Free
1/1/87		Free			

The item provides for certain "not made" electrical products when imported for the use specified. It will be noted that parts must be "complete" and also "of a class or kind not made in Canada". A complete part is one which, in the condition as imported, is ready for use in the product of which it is a part; it must not require any further processing (e.g. grinding or polishing), nor can it be a "part of a part". The M.F.N. rate of this item was bound at Free in the MTN.

It the absence of classification under item 44530-1 or some other end-use item, most of the products named, and complete parts thereof, would be classified elsewhere in the electrical schedule, principally as transformers and complete parts thereof (item 44514-1), or as electrical apparatus n.o.p., and complete parts thereof (item 44524-1). These latter items are bound at 9.2 p.c. and 10.2 p.c. respectively.

Imports

Imports under this item in recent years have varied in value between \$0.6 million and \$0.9 million, reaching a peak of \$947,000 in 1981.

Submissions

Some of the general positions outlined in the introduction to this chapter are relevant. In the only specific reference to this item, BC Coal Ltd. noted that "all equipment used in underground mines must be approved and certified by the Federal Department of Energy, Mines and Resources and also by the Provincial Department of Mines as being suitable for use". Thus, while "investigation may determine that certain flameproof goods are made in Canada .. these goods may not be approved for use as required".

Conclusions and Recommendation

In the absence of any information to the contrary, the Board considers the types of equipment named in the item, when flameproof, to be of a class or kind not made in Canada.⁽¹⁾ Similarly, with respect to complete parts, it considers that such parts, when flameproof, are "not made"; however, in view of the existence of a substantial electrical goods industry in Canada, it considers that complete parts which are not themselves required to be flameproof would be "made". Consequently, the Board recommends the retention of the existing duty provisions of this item, with an altered nomenclature, namely:

(1) Ibid, p. 71.

44530-1 Electric transformers, rectifiers, cable-connecting devices, trailing cable extensions with couplers moulded on, junction boxes, and complete parts of all the foregoing; all the foregoing when flameproof and for use in mines in which inflammable gases exist

Free Free 37.5 p.c. Free Free

Tariff Item 44725-1

Existing Tariff Provisions

The coverage of this item is clearly indicated by its nomenclature, which names certain specific goods, with the proviso that they must be of a class or kind not made in Canada, but without end-use restriction. The full nomenclature and rates of duty are:

Well points, well screens, well strainers, pitless well heads; all the foregoing of a class or kind not made in Canada, parts thereof

1/1/82	Free	6.8 p.c.	12.5 p.c.	Free	5.5 p.c.
1/1/87		5.5 p.c.			

It will be noted that the item covers parts of qualifying goods, regardless of their own made-in-Canada status. In the MTN, the M.F.N. rate was bound at 5.5 p.c.

When of a class or kind made in Canada, and not qualifying for entry under any other end-use item, the goods described in the item would be dutiable according to the component material of chief value, particularly under such tariff items as 44603-1 (unspecified manufactures of iron or steel) and 35200-1 (unspecified manufactures of brass or copper). Both of these items have M.F.N. rates bound at 10.2 p.c. in the MTN.

Imports

Imports under the item peaked at nearly \$1 million in 1977, and fell to about \$0.9 million in 1978 and 1979 and to less than \$0.8 million in 1980 and 1981.

Submissions

In addition to the general submissions relevant to this chapter, it should be noted that the Canadian Water Well Association, the principal petitioner with respect to these products, indicated a preference for retaining in the Customs Tariff a specific enumeration of the goods listed in item 44725-1, for ease of classification.

Conclusions and Recommendations

Information gleaned by the Board subsequent to the publication of the relevant staff appraisal has revealed that there are two or three companies producing well screens in Canada, and that there is also Canadian production of well points and well strainers (c.c. 469-99-89).⁽¹⁾ Consequently, the tentative "not made" status previously attached to these goods⁽²⁾ should be amended. The Board considers well points, well screens of all sizes and well strainers to be made in Canada, and pitless well-heads to be not so made.

While it would be simple to retain the existing item and rates of duty solely for pitless well heads, the Board has taken cognizance of the request of the Canadian Water Well Association for the retention of a specific enumeration for all the goods in question. To the "made" goods, it has assigned the bound rates of duty applicable under the principal relevant tariff item (44603-1) now covering such goods. The Board, therefore, recommends the replacement of tariff item 44725-1 with the following tariff provisions:

(1) See Appendix IV, infra, p. 333.

(2) Ibid, p. 74.

44725-1 Well points, well screens and well strainers; parts of all
the foregoing

10 p.c.	10.2 p.c.	35 p.c.	6.5 p.c.	10.2 p.c.
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44726-1 Pitless well-heads and parts thereof

Free	5.5 p.c.	12.5 p.c.	Free	5.5 p.c.
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CHAPTER 5. MACHINERY AND APPARATUS FOR USE IN THE
DEVELOPMENT OF RESOURCES OF OIL, NATURAL GAS, POTASH OR ROCK SALT

Introduction

This group of tariff items (from which 41001-1 and 41002-1 are, for present purposes, excluded)⁽¹⁾ comprises four pairings of "made" and "not made" items covering a broad range of capital goods used in the extraction and production of oil, natural gas, potash or rock salt. Two of the items pertain to residual (unspecified) classes of machinery and apparatus, together with their parts and the parts of certain other named pieces of equipment, for use in connection with the exploration, discovery, development, maintenance, testing or production of oil or natural gas wells up to and including the well-head assembly or surface oil pumping unit, as well as providing for well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits. Two further items provide for certain named goods, including bolted steel tanks, pumps, chokes and separators, for use in connection with oil or natural gas wells, for installation between the well-head assembly or surface oil pumping unit and the field marketing valve. Two other items encompass unspecified machinery and apparatus for use in the distillation or recovery of products from natural gas. Finally, another two items cover unspecified machinery and apparatus for use in producing unrefined oil from shales, in mining oil-sands, or in extracting oil from the sands so mined.

A total of 30 companies and industry groups made representations to the Board concerning the tariff disposition of goods falling within this study group. As in the case of mining and metallurgical equipment, a number of these submissions were not specific to any particular item or pair of items, but were more in the nature of general proposals setting forth approaches or principles to be applied across a broad front. Insofar as these representations concern goods which are also eligible for entry under referred items in the mining machinery schedule (most especially items 41001-1 and 41002-1), they have already been summarized in the preceding chapter.⁽²⁾ Among the individual tariff items presently under review, 49104-1 and 49105-1, covering

(1) Tariff items 41001-1 and 41002-1 are reviewed supra, pp. 52-8.

(2) Supra, pp. 54-6.

residual categories of machinery and apparatus and a multitude of parts, accounted for the bulk of the specific representations while, at the other extreme, items 49201-1 and 49202-1 (bolted steel tanks etc.,) attracted no specific attention.

The weight of interest demonstrated in tariff items 49104-1 and 49105-1 becomes understandable in the light of import statistics, which indicate these two items accounting for almost 86 per cent of the value of imports under all the referred tariff items in this study group during the years 1979-81.⁽¹⁾ For the group as a whole, imports totalled \$421 million in 1981, up very slightly from the 1980 figure. In most of the immediately preceding years, growth had been substantial, with the largest proportionate gain occurring in 1975-76. Over the period 1975-81 as a whole, the growth in the value of imports under the "made" items increased at an average rate of almost 37 per cent per annum, compared to 27 per cent in the case of the "not made" items, thus suggesting some increase in Canadian self-sufficiency in this manufacturing sector.

General Submissions

A number of the proposals received with respect to this group related to all or most of the tariff items involved, although in many instances there were also references to specific referred items and to goods covered by non-referred items. Those positions received prior to the preparation of the pertinent staff appraisal are set forth therein in detail under each relevant tariff item. To avoid duplication, these submissions are summarized here, together with those received for the staff appraisal hearing. The reader should also refer to the general positions summarized in Chapter 4, as a number of these are also relevant to some or all of the items reviewed in this chapter.

It will be noted that many of these submissions go beyond the scope of the reference in that they seek either: (a) to encompass in the recommended schedule goods now falling under non-referred items; and/or (b) to alter the existing relationships between goods and parts.

⁽¹⁾ See Appendix III, infra, pp. 319-20.

The views set forth in these general submissions are as follows:

The Canadian Petroleum Association (CPA), representing the main body of users of oilfield machinery and apparatus, recommended the adoption of an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item". The Association further requested that no additions should be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada, and that the list of "made" products should be subject to annual verification. The Association also expressed concern that not all phases of the recovery and processing of petroleum and/or natural gas are covered by the end-use provisions of the items numbered from 49101-1 to 49220-1. It indicated a preference for broad provisions covering all aspects of oilfield development, which would go beyond the referred items to embrace all items, referred or not, in the 491 and 492 series, as well as attracting goods from other parts of the Customs Tariff. Mentioned as being of particular concern were questions relating to the development of new methods for recovering oil from tar-sands which might not meet the provisions of items 49215-1 and 49216-1, and the lack of any specific tariff accommodation for equipment for upgrading such oil to the equivalent of marketable crude. The CPA also cited more specific areas of concern outside the terms of reference, where changes are sought. In particular the Association noted that not all sizes of casing covered by item 39905-1 are produced in Canada, but that these sizes are all dutiable as the item makes no exception for "not made" or "not available" goods.⁽¹⁾

(1) Tariff item 39905-1 is worded:

Pipes or tubes of iron or steel, commonly known as "oil-country goods", being casing or tubing and fittings, couplings, thread protectors and nipples therefor; all of the foregoing for use in connection with natural gas or oil wells

1/1/82	5 p.c.	9.5 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87		6.8 p.c.			

In like vein, the Canadian Association of Oilwell Drilling Contractors (CAODC) stated that the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import". In the Association's view, an eo nomine tariff approach would be "workable", providing that consideration is given to "types, sizes and other ratings of goods", as well as to the quality and availability of Canadian-made products, and providing that periodic reviews are carried out to determine what is actually being produced by Canadian manufacturers for the oil and gas industry. Like the CPA, the Canadian Association of Oilwell Drilling Contractors also indicated an interest in tariff item 39905-1, suggesting the application of "made/not made" criteria to this item, as well as to item 40000-1 (fittings and couplings) and to certain goods under items 49101-1, 49102-1 and 49103-1.⁽¹⁾

The abovementioned reservations respecting an eo nomine treatment of the relevant goods were reiterated in the submission of the Canadian Gas Association, which, while primarily concerned with tariff items 49210-1 and 49211-1, also cited the interest of its members in items 49103-1, 49106-1 and 49110-1, as part of a broader tariff arrangement.⁽²⁾ As an alternative to a broader item, the Association suggested that the word "apparatus" be added into item 42700-1, thereby bringing such non-referred equipment used in the development of oil and natural gas resources within the scope of the Machinery Duty Remission Program.

In another submission, the Canadian Water Well Association (CWWA) pointed out the similarity of the operations of its members to those of undertakings in the oil and gas sector. It noted, however, that the only tariff items covering goods used in oilfield and related activities to which its members have access are referred items 41001-1 and 41002-1, pertaining to drills, bits and augers. The Association sought to have the common preamble

(1) For the nomenclature of these tariff items, see Appendix II, infra, pp. 280, 281, 311-12.

(2) See infra, pp. 99-100.

to items 49101-1 to 49110-1 amended in order to encompass goods used in the development of water resources; this would grant its members access, not only to referred items 49104-1 and 49105-1, but also to non-referred items 49101-1, 49102-1, 49103-1, 49106-1 and 49110-1.⁽¹⁾ Additionally, the Association sought to have the coverage of non-referred item 39905-1 extended to include pipes, casing etc., used in connection with water wells, as well as oil or natural gas wells.⁽²⁾ However, regardless of the veracity of the claims of comparability, these various proposals - like most of those of the other industry groups, reviewed above - are judged by the Board to go well beyond the scope of the present reference.

Representing one more organization of users, the Canadian Association of Geophysical Contractors, in a submission directed at tariff items in several of the study groups in the present reference, proposed that geophysical products and their material inputs (i.e. raw materials, semi-finished goods and completed products) should be allowed duty remission based on an "availability" criterion, as in the case of the Machinery Duty Remission Program.

On the manufacturing side, the Canadian Oilfield Manufacturers Association (COMA) favoured an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing oilfield machinery and apparatus; it further proposed the separate duty treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources. Should these proposals not prove acceptable, the Association recommended retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages". In the event of an eo nomine approach being adopted, the Association asked that all relevant items with bound rates other than Free

(1) See infra, pp. 99-100.

(2) See supra, p. 95.

should be made dutiable, with duty relief being provided, in appropriate cases, by use of a modified version of section 12 of the Customs Tariff.⁽¹⁾ Initially, this section would be applied to "all items not presently being charged a duty under the made/not made approach".

In addition to these representations by industry groups, a number of other general positions were advanced by individual companies. Thus, proposals for the exclusion of specific general-purpose goods from the end-use items under review were received from Canadian General Electric Company Limited, Cooper Energy Services Ltd., Solar Turbines Canada, C.K. Steel & Machinery, Canadian Boilers Limited; while proposals for changing the tariff relationship between parts of goods and their parent products were received from Greening Donald Co. Ltd., Wire Rope Industries Ltd., Canada Valve Inc., and Union Carbide Canada Limited. Fuller details of these proposals will be found in Chapter 4⁽²⁾ and under the individual tariff items reviewed below.

Tariff Items 49104-1 and 49105-1

Existing Tariff Provisions

These two items are the residual items of a group relating to the discovery and development of oil or gas wells and potash or rock salt deposits. The general heading of this group is as follows:

Machinery and apparatus for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the wellhead assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include automotive vehicles or chassis on which the machinery and apparatus are mounted:

(1) See supra, p. 33.

(2) Supra, pp. 50-2, 66-7, 77, 86.

Items 49104-1 and 49105-1 share a sub-heading:

All other machinery and apparatus, and parts thereof; parts of goods enumerated in item 49103-1:

49104-1	Of a class or kind made in Canada				
1/1/82	5 p.c.	10 p.c.	20 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
49105-1	Of a class or kind not made in Canada				
	Free	Free	Free	Free	Free

Under both of the above items the M.F.N. rate was bound at 9.2 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49105-1.

The two tariff items are intended to provide for all applicable machinery and apparatus not specifically covered elsewhere. The major exclusions are set out in items 49101-1, 49102-1, 49103-1, 49106-1 and 49110-1, the other five items under the common heading - viz:

49101-1 Belting and hose, wholly or partly of rubber, and fittings and accessories therefor whether attached or not;
Casing centralizers, wall scratchers and scrapers, stop rings and cement baskets;
Moulded or extruded rubber products, namely cementing plugs, protectors, wipers, swab rubbers, and rubber rollers for wireline guides and turnback units;
Screens for shale shakers;
Swaged nipples and bull plugs not exceeding 4 inches in outside diameter;
Wellhead valves, not under 2 inch or over 3 inch nominal size, rated for service in working pressures up to and including 2,000 pounds per square inch W.O.G. (water, oil, gas), excluding check valves, pressure regulators, automatic safety valves and needle valves;
Parts of all the foregoing.

49102-1 Blow-out preventers;
Crown blocks and travelling blocks;
Elevators and elevator links;
Fishing tools;
Flanged casing heads;
Masts or derricks for drilling, servicing or work-over rigs;
Rotary tables;

Screwed casing heads for surface casings exceeding 10 3/4 inches in outside diameter, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil gas);

Swivels;

Well logging equipment;

Well perforating equipment;

Wellhead valves over 3 inch nominal size, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil, gas);

Well-packers;

Parts of all the foregoing.

49103-1 Drilling, servicing or work-over rigs, assembled or not;
Draw works;
Slush pumps;
Motive power and drive groups for operating slush pumps, draw works or rotary table.

49106-1 Sucker rods, pony rods, polished rods, and couplings therefor; parts of the foregoing.

49110-1 Mud pumps over 1,000 h.p.; power turntables; 8-way rotary selector valves and actuators; air activated dry clutches and mechanically actuated clutches; hydramatic brakes; parts of all the foregoing.

Also excluded are goods encompassed by tariff items 41001-1 and 41002-1, which provide for the following named articles:

Bits and augers of all kinds;

Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;

Fishing tools, n.o.p.;

Reamers, stabilizers, and combinations thereof, n.o.p.;

All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying.

With the exception of goods falling under items 41001-1 and 41002-1, the seven items 49101-1 to 49110-1 are considered to be all-embracing and to include all machinery and apparatus, and parts thereof, used for the purposes stated in the preamble to the seven items.

It will be noted that parts of the goods covered by item 49103-1 fall under the referred items 49104-1 and 49105-1, and that the classification of these and other relevant parts depends on their own made-in-Canada status and not on that of the machinery or apparatus of which they form parts.

Although the range of goods covered by these two items is very broad, most of the very large and/or more expensive articles of machinery and apparatus are either specifically provided for by name (items 41001-1, 41002-1, 49101-1, 49102-1, 49103-1, 49110-1) or - when for certain specialized uses such as oil-sands operations or in connection with the distillation or recovery of products from natural gas - find prior accommodation in other tariff provisions. Thus, it may be said - and this is borne out by the commodity classes listed in the staff appraisal⁽¹⁾ - that the great majority of goods entering under tariff items 49104-1 and 49105-1 are "general purpose" in both the broadest sense and with reference to the oil and gas industries.

In the absence of these two items, the vast bulk of the goods in question would undoubtedly fall under item 42700-1 and be subject to the Machinery Duty Remission Program. Smaller quantities would probably be classified under electrical items or as manufactures of various materials.

Imports

In 1981, the value of goods imported under tariff items 49104-1 and 49105-1 amounted to \$108.7 million and \$236.1 million respectively. The latter figure represented a substantial decline from the \$281.3 million recorded in 1980. Up to this date, growth under both items had been rapid, the combined value of imports increasing almost fivefold since 1975. Parts, categorized as such, including parts of goods enumerated in item 49103-1, appear to have generally accounted for approximately three-fifths of all pertinent imports judged to be properly classified under both items.

Submissions

Including those representations of a mainly general nature, summarized earlier,⁽²⁾ twelve of the submissions received by the Board made specific reference to goods classifiable to the tariff items presently under

(1) Staff Appraisal. Machinery and Apparatus for Use in the Development of Resources of Oil, Natural Gas, Potash or Rock Salt, pp. 35-40.

(2) Supra, pp. 94-8.

review. Two of these submissions emanated from the Canadian Petroleum Association and the Canadian Association of Oilwell Drilling Contractors respectively, whose memberships comprised many of the domestic users of the goods at issue. The views of these organizations with respect to the made-in-Canada status of some of the main categories of goods - including roller chain, valves, engines, gas turbines, generator sets, gear units, gas compressors, heat exchangers, pump jacks and parts thereof, and various items of computer equipment - have already been summarized in the pertinent staff appraisal⁽¹⁾ and will not be repeated here.

Among individual importers/users, Grant Corporation Limited of Calgary, Alta., noted the "not made" ruling presently applying to coiled steel mechanical tubing for use in well-servicing and oil-recovery operations (c.c. 448-69-40), and requested that duty-free access for such goods should be continued. In another submission, Carreau Oilfield Specialties Ltd. of Edmonton, Alta., requested duty-free entry for "Oteco Model 72 Valves ... available in 2", 3", 4" and 5" sizes and working pressures of 2,000, 3,000 and 5,000 psi" and for "Lewis Oilfield Brake Blocks ... special drilled to fit each individual draw works on the drilling rig". These goods are currently imported under "made" item 49104-1, but were said to possess certain "unique" characteristics which differentiate them from corresponding Canadian products.

Among Canadian manufacturers, the Gear Products Section of the Machinery & Equipment Manufacturers' Association of Canada (MEMAC), in a submission in which it was joined by Hamilton Gear and Machine Company (a division of Compro Limited), Toronto, Ont., and Wilson Machine Co. Limited of LaSalle, Que., indicated that planetary gear type speed reducers in the range 25:1 to 64:1 speed ratios and 5 to 30 horsepower (part of c.c. 504-40-85) are made in Canada. This class had been given a "not made" designation in the relevant staff appraisal.

(1) Ibid, pp. 40-3.

In detailed representations addressing concerns with respect to a range of the referred items, Cooper Energy Services Ltd., Mississauga, Ont., supported by Cooper Rolls Corporation, requested that natural gas-fired jet engines over 8,000 bhp, produced by Rolls, should not be "admissible at reduced rates of duty down to free". With a view to obtaining protection for Cooper's production of rotary centrifugal gas compressors with capacities in excess of 140,000 cfm (which can also compress air), the company further requested that there should be no reduction in duty on stationary rotary air compressors of over 140,000 cfm (c.c. 507-11-42), deemed to be of a class or kind not made in Canada. The company also asked that there should be no duty exemption for stationary reciprocating gas compressors in the range 150 hp to 300 hp (c.c. 507-11-51 and 507-11-52) or for reciprocating gas-engine compressors over 13,000 hp (c.c. 507-11-63). With respect to the latter, the company indicated that a 13,500 hp unit was the largest it had so far produced, while, in regard to the former, it advised that "provision is now being made to produce in Calgary stationary integral reciprocating gas compressors down to 30 H.P." Finally, with reference to stationary centrifugal type compressors (c.c. 507-11-61), the firm indicated its understanding that "there has never been any demand for more than 9 stages for end-use applications within the scope of tariff items 49104-1 and 49105-1". However, if such a demand should arise, "Cooper Energy Services would be prepared to produce".

In other submissions, Canadian General Electric Company Limited, Toronto, Ont., indicated that it manufactures the following goods which had been given a "not made" or "uncertain" designation in the staff appraisal listing: "triple-rated Cema-D, 4,500 hp and over, thyristor controlled" (part of c.c. 503-69-89: "motors, electric, nes"); "rectifier sets, industrial" (c.c. 688-79-50); "electronic equipment components, parts of, nes" (c.c. 639-99-88); and "generator sets, steam turbine" (c.c. 503-13-30). Also in a supplementary submission, Solar Turbines Canada, Edmonton, Alta., advised that it manufactures gas turbines ranging from 1,000 to 11,730 hp (c.c. 502-40-39).

Volcano Inc. of St-Hyacinthe, Que., referred to the provisional "not made" designation accorded in the staff appraisal to water tube type power boilers with ratings in excess of 150,000 lb/hr (c.c. 501-19-21), and indicated that for some years it had been manufacturing such boilers with a capacity of 165,000 lb/hr. Also in the same general product area, Canadian Boilers Limited of Mississauga, Ont., informed the Board that it manufactures high pressure steam generators used in the recovery of heavy oil, such goods being eligible for entry at preferential rates of duty under "made" tariff items 49104-1 and 49215-1. In the firm's view these steam generators "are no different" from the industrial steam generators or boilers which are dutiable at higher rates.⁽¹⁾ The company requested that the end-use duty preference with respect to such goods should be abolished.

In another submission, Reed Tubular Products Company (a division of Reed Tool Company of Canada, Limited), Edmonton, Alta., represented that it manufactures tool joints for attachment to plain-end drill pipe. These goods have been given a "made" listing in the relevant staff appraisal under c.c. 521-17-87 ("tool, joint, oil well drill, except combination drill pipe"). The company's concern, as indicated in its submission, pertains to the entry on a duty-free basis (under tariff item 39910-1) of tool joints already attached to drill pipe, while its ability to export to the United States is impeded by a duty rate of approximately 13 p.c. The company indicated that it "would appreciate any effort or arrangement that could be made to create a more equitable situation".

Finally, Harding Instruments Co. Ltd. of Edmonton, Alta., electronic design consultants and manufacturers, asked for a duty to be imposed on fluid flow measuring/controlling instruments, nes (c.c. 703-44-90); the company deprecated the fact that, while it pays import duties on electronic components used in the manufacture of its flow meter equipment, this class of equipment, when supplied to the oil industry, is imported duty free (under tariff items 49105-1 and 49216-1).

(1) The normally applied tariff item is 42805-1, which provides for "boilers and complete parts thereof, n.o.p.", and has a M.F.N. bound rate of duty (effective January 1, 1987) of 12.5 p.c.

Conclusions and Recommendations

Of the 202 commodity classes listed in the relevant staff appraisal⁽¹⁾ - plus c.c. 448-69-40, brought to the Board's attention by Grant Corporation Limited⁽²⁾ - it appears that 123 embrace goods which the Board considers appropriate for inclusion in its proposed new tariff provisions for general-purpose machinery and apparatus for use in oilfield development and related activities.⁽³⁾ The made-in-Canada status of these goods will be reviewed in the context of these proposed new provisions. Of the remaining 80 commodity classes, 50 were provisionally determined to be "made",⁽⁴⁾ two were given a "not made" designation, four were judged to cover both "made" and "not made" sub-classes of goods, and 24 were categorized as being of "uncertain" made-in-Canada status.

On the "not made" side, the residual classes and sub-classes were: c.c. 448-69-40 ("tubing, mechanical, alloy steel, except stainless steel, welded, new"); c.c. 469-99-40 ("tubing, flexible metal, except electric"); c.c. 469-72-49 ("tanks, storage, nes" - steel bolted tanks); c.c. 509-85-89 ("filtering machinery, industrial, nes" - filter presses); c.c. 634-39-50 ("radar, navigation, marine" - except satellite position - fixing systems); and c.c. 634-39-90 ("radar equipment, nes" - synthetic aperture radar, airborne).

With respect to the "uncertain" commodity classes, the Board decided that c.c. 502-99-18 ("engines, diesel and semi-diesel, general purpose, accessories") and c.c. 502-99-28 ("engines, gas, general purpose accessories") should be eliminated from further consideration in view of the imprecision of these descriptions. So far as the other classes are concerned, in the light of additional information received and/or a review of pertinent import data,

(1) Ibid, pp. 35-40.

(2) See supra, p. 102.

(3) For a listing of the goods encompassed by these proposed provisions, see infra, pp. 129-33.

(4) Including c.c. 521-79-89 ("oil/petroleum field production machinery/equipment, nes"), which, due to an oversight, was not given any made-in-Canada designation.

the Board has concluded that the following are domestically produced: c.c. 449-79-40 ("wire rope, new, greater than 2" diameter, 8 strand and under"); c.c. 449-79-45 ("wire rope, new, greater than 2" diameter, over 8 strand"); c.c. 504-05-89 ("bearing ball, unmounted, nes"); c.c. 513-15-46 ("crane for use on ships, boats or barges" - hydraulic type hoists only); c.c. 521-79-42 ("separator/trap, oil and gas, oil field production"); c.c. 639-99-88 ("electronic equipment components, parts of, nes"); and c.c. 688-79-50 ("rectifier sets, industrial").⁽¹⁾

In regard to the remaining "uncertain" classes, evidence of Canadian production capability is either totally lacking or is too slight, in the Board's view, to justify a "made" determination. Accordingly, the Board would categorize the following classes of goods as "not made in Canada": c.c. 466-09-20 ("chain, roller, power transmission and conveyor"); c.c. 466-09-26 ("chain, roller, offset sidebar"); c.c. 513-15-46 ("crane, for use on ships, boats or barges" - except hydraulic type hoists); c.c. 521-79-26 ("pressurising equipment, oil well"); c.c. 703-75-11 ("pressure measuring/controlling instruments"); c.c. 709-49-90 ("physical properties testing/inspection equipment, nes"); c.c. 709-93-88 ("surveying instruments, parts of, nes"); c.c. 709-93-90 ("surveying instruments, nes"); c.c. 709-94-11 ("magnetometers, geophysical"); c.c. 709-94-21 ("seismic instruments"); c.c. 709-94-28 ("seismic instruments, parts of"); c.c. 709-94-31 ("meters, gravity, prospecting"); c.c. 709-94-88 ("geophysical instruments, parts of"); c.c. 709-94-90 ("geophysical instruments, nes"); c.c. 709-99-31 ("research equipment, oceanographic"); and 709-99-38 ("research equipment, oceanographic, parts of").

Only two of the abovementioned commodity classes were specifically referred to in submissions to the Board in connection with this study group - viz: c.c. 639-99-88 ("electronic equipment components, parts of, nes") and c.c. 688-79-50 ("rectifier sets, industrial"), both of these being classes of

(1) See Appendix IV, *infra*, pp. 324-38 for a listing of the Canadian producers of these classes of goods.

goods which Canadian General Electric Company Limited claimed to manufacture.⁽¹⁾ With respect to other submissions made to the Board concerning products excluded from the proposed new tariff provisions for general-purpose goods, the Board recognizes the validity of the interest of Grant Corporation Limited in the duty-free entry of coiled steel mechanical tubing, and it takes cognizance of the production interest of Harding Instruments Co. Ltd. in flow meter equipment. However, it feels unable to respond positively to the representation made by Reed Tubular Products Company, since the drill pipe which is the subject of complaint is imported under a tariff item which has not been referred to the Board for study. Neither does the Board feel able to recommend duty-free entry for the goods in which Carreau Oilfield Specialties Ltd. has indicated an interest, since, from the information provided, these do not appear to differ sufficiently from similar domestically-manufactured products as to constitute distinctly different classes or kinds.

As the variety of goods currently entering under items 49104-1 and 49105-1 is extremely diverse, and the pertinent commodity classes are, in a number of instances, very broad, the Board has encountered difficulty in establishing a precise eo nomine tariff nomenclature. It, therefore, opts for a tariff arrangement whereby, in the light of more definitive information, revisions may be made to the listing of duty-free goods, should modifications be deemed desirable.

Accordingly, the Board proposes the following provisions as replacements for tariff items 49104-1 and 49105-1:

Machinery and apparatus for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the well-head assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include automotive vehicles or chassis on which the machinery and apparatus are mounted:

(1) Supra, p. 103.

49104-1 All other machinery and apparatus and parts thereof;
parts of goods enumerated in tariff item 49103-1:

5 p.c. 9.2 p.c. 20 p.c. 5 p.c. 9.2 p.c.

49104-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 49104-1:

Airborne synthetic aperture radar;
Bolted steel tanks;
Coiled steel mechanical tubing;
Cranes for use on ships, boats or barges, except hydraulic type hoists;
Filter presses;
Flexible metal tubing, non-electric;
Geophysical instruments, including magnetometers;
Gravity meters for use in prospecting;
Marine navigation radar, but not including satellite position-fixing systems;
Oceanographic research equipment;
Oil well pressurising equipment;
Physical properties testing/inspection equipment;
Pressure measuring/controlling instruments;
Roller chain: power transmission, conveyor, and offset sidebar types;
Seismic instruments;
Surveying instruments;
Parts of all the foregoing

Tariff Items 49201-1 and 49202-1

Existing Tariff Provisions

Bolted steel tanks;
Chemical injection pumps;
Chokes, beans and flow controllers;
Separators and treaters, oil, gas or water;
All the foregoing for use in connection with oil or natural gas wells for installation between the wellhead assembly or surface oil pumping unit and the field marketing valve:

49201-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	8.8 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87		6.8 p.c.			
49202-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

The above items provide for certain specific goods at an intermediate stage in the oil and gas production process. Under both items the M.F.N. rate was bound at 6.8 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49202-1. It will be noted that the parts follow the goods for classification purposes; therefore, the Board has not been concerned with the made-in-Canada status of parts.

In the absence of items 49201-1 and 49202-1, the goods would mainly fall under item 42700-1 and be subject to the Machinery Duty Remission Program. Some tanks might be classified as manufactures of iron or steel, n.o.p. (item 44603-1), dutiable at a bound rate of 10.2 p.c. Some of the tariff provisions relating to instruments, as well as items providing for unenumerated manufactures of various materials, might also be relevant.

Imports

In 1978-80 average annual imports under tariff items 49201-1 and 49202-1 amounted to \$3.0 million and \$2.7 million respectively. For 1981, the corresponding figures were \$4.9 million and \$2.8 million. Of these imports, it appears that parts dominated entries under the "made" item (49201-1), while finished products accounted for the bulk of goods admitted under the "not made" item (49202-1).

Submissions

The Board did not receive any submissions directed specifically at tariff items 49201-1 and 49202-1. In part, this may simply have reflected the comparatively low value of imports under these items. In addition, the scope for comment on the "made/not made" status of the goods will have been limited by the shortness of the list of named products.

Conclusions and Recommendations

As no interested parties have commented on the provisional made-in-Canada determinations contained in the pertinent staff appraisal⁽¹⁾ the Board accepts these as accurate. One commodity class - viz: "oil/petroleum field production machinery/equipment, nes" (c.c. 521-79-89) - was given an "uncertain" made-in-Canada status. This class was subsequently eliminated from further consideration in view of its broad and indeterminate coverage.

Of the four product categories specifically named in the nomenclature of tariff items 49201-1 and 49202-1, chemical injection pumps are considered appropriate for inclusion in the new tariff provisions proposed by the Board with respect to general-purpose machinery and apparatus for use in oilfield development and related activities.⁽²⁾ Among the reported commodity classes not named in the nomenclature, "valves, automatic operator controlled, nes" (c.c. 468-09-89) would also be accommodated in the proposed new provisions.

With respect to the remaining goods, the Board recommends that these be incorporated in a modified version of the existing tariff provisions, as follows:

All the following for use in connection with oil or natural gas wells for installation between the well-head assembly or surface oil pumping unit and the field marketing valve:

(1) Staff Appraisal, p. 48.

(2) See infra, p. 133.

49201-1	Chokes, beans and flow controllers; separators and treaters, oil, gas or water				
	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.
49202-1	Bolted steel tanks				
	Free	Free	Free	Free	Free

Tariff Items 49210-1 and 49211-1

Existing Tariff Provisions

Machinery and apparatus for use in the distillation or recovery of products from natural gas

49210-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	12.8 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
49211-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

Under both items the M.F.N. rate was bound at 9.2 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49211-1. It will be noted that the classification of parts follows that of the associated goods and is not dependent on the made-in-Canada status of the parts themselves. Consequently, insofar as the terms of reference are concerned, the Board does not need to seek, and has not sought, information with respect to parts.

These items are considered to be all-embracing, that is, they cover machinery or apparatus of any kind, and parts thereof, imported for the specified end uses. Consequently, they cover goods which, in the absence of these or any other relevant end-use items, would fall under many different items in the Customs Tariff. However, much of the machinery would fall into item 42700-1, with a bound rate of 9.2 p.c. and be subject to the Machinery Duty Remission Program. Many of the items which would relate to apparatus have bound rates of 10.2 p.c., with no provisions for relief for goods "not made" or "not available" in Canada.

Imports

For the period 1978-80, imports under tariff items 49210-1 and 49211-1 had an average annual value of \$5.6 million and \$12.6 million respectively. For 1981, the corresponding figures were \$10.4 million and \$21.3 million. Compared with imports in 1975, those in 1981 represented a fourfold increase in the case of the "made" item, (49210-1) and a twofold expansion in the case of the matching "not made" provision.

Submissions

While a number of the general submissions summarized in earlier parts of this and the preceding chapter⁽¹⁾ are relevant to these tariff items, the most pertinent views came from the Canadian Gas Association, speaking on behalf of the many firms engaged in the development of resources of natural gas. The main thrust of the Association's proposal was to the effect that the coverage of the items should be broadened from machinery and apparatus used in gas-processing plants to "encompass all goods that are used in the production, gathering, processing, transmission, storage and distribution of natural gas." It was suggested that a new tariff classification might be established, with the following preamble:

Machinery and apparatus for use in the gathering, processing, transmission, distribution or storage of natural gas ...

The Association also favoured "maintaining the existing made in Canada criteria to the extent possible", but suggested that if an eo nomine approach is adopted, all goods should be identified "by specific size, model, rating, etc.", that the listings of "not made" products should be restricted "to those goods which are clearly not going to be made in Canada in the near future", and that there should be regular reviews of the tariff classification, with provision for adding to the eo nomine listing of duty-free goods through the use of section 273 of the Customs Act or a modified version of section 12 of

(1) Supra, pp. 48-52, 94-8.

the Customs Tariff. Also sought were provisions for duty-free entry on an eo nomine basis for parts for use in the manufacture, repair or construction of goods covered by the proposed items and for the use of a duty remission procedure to accommodate "specific exclusions" when otherwise dutiable goods are not available from Canadian manufacturers. As an alternative, it was suggested that the word "apparatus" should be added to tariff item 42700-1 (presently applicable to machinery n.o.p.), thus making all goods now admissible under the referred items - which would presumably be deleted - subject to the Machinery Duty Remission Program.

In a less general submission, Union Carbide Canada Limited of Toronto, Ont., requested a change in the dutiable treatment of H.F. (high flux) tubing (c.c. 521-99-79), claiming this to be a comparatively new, patented product "not available from any Canadian sources" but dutiable under tariff item 49210-1 as "parts" of "made" equipment such as chillers or heat exchangers, even though it "represents in excess of 50 per cent of the cost of a given unit" of such equipment. The company further noted that "a provision also exists whereby this tubing may also enter free of duty under the provisions of tariff item 49220-1" (materials for use in the manufacture of the goods specified in tariff items ... 49210-1, 49211-1 ...).

Reference should also be made to the Board's review of tariff items 49104-1 and 49105-1 for the observations of Cooper Energy Services Ltd. and Solar Turbines Canada concerning the made-in-Canada status of compressors and turbines respectively.⁽¹⁾

Conclusions and Recommendation

A very high percentage of the value of products at present imported under items 49210-1 and 49211-1 lend themselves for inclusion within the nomenclature of the proposed new tariff provisions for general-purpose

(1) Supra, p. 103.

machinery and apparatus for use in oilfield development and related activities.⁽¹⁾ Of the remaining goods, it appears that the bulk consists of machinery which, as pointed out above, would otherwise fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program.

As for expanding the scope of the items, or making wide-sweeping changes to the relationship between goods and parts, it is the opinion of the Board that such actions would exceed the terms of reference outlined in the Minister's letter of reference. Furthermore, parties whose interests might be affected by a broadening of the application of the items to include processes other than "the distillation or recovery" of products from natural gas, have not had an opportunity to make their views thereon known to the Board.

With respect to the submission of Union Carbide Company Limited, it would appear that the high flux tubing in question should be allowed duty-free entry under tariff item 49220-1 when imported for use in the manufacture of chillers or heat exchangers, or of parts thereof, for the end purposes specified in tariff items 49210-1 and 49211-1. However, when imported for use as repair or replacement parts of such "made" goods, it would be dutiable under item 49210-1, irrespective of its own made-in-Canada status. Similarly, when imported for end purposes other than those now provided for in items 49210-1 and 49211-1 (e.g. for use in the petrochemical industry) duty would also be payable. The Board has no proposals for changing this situation.

In the staff appraisal, 46 commodity classes were listed as being relevant to items 49210-1 and 49211-1.⁽²⁾ However, 40 of these classes cover goods that would fall under the proposed new provisions for general-purpose goods.⁽³⁾ A further three classes, while much more specific to the tariff items under review, have broad coverage and are listed in the staff appraisal as being of "uncertain" made-in-Canada status. These classes encompass "gas recovery machinery, petroleum refining" (c.c. 521-99-25),

(1) See infra, pp. 129-33.

(2) Ibid., pp. 52-3.

(3) See infra, p. 128.

"distillation machinery, petroleum refining" (c.c. 521-99-26), and "natural gas products machinery/equipment, nes" (521-99-79). No further information has been received, and examination of detailed import statistics indicates that goods coded to these classes were entered in substantial quantities under both the "made" and the "not made" items during the years 1978 to 1981.

Only three other commodity classes were listed in the staff appraisal with respect to the tariff items under review - viz: "control equipment, electrical industrial, nes" (c.c. 688-59-90), categorized as being of "uncertain" made-in-Canada status; "gas chromatography equipment" (c.c. 705-31-80), which was given a "made" designation; and "computers, digital, central processing unit" (c.c. 771-22-20), listed as "not made". Under only one of these classes (c.c. 705-31-80) did imports in the years 1978-81 assume any regularity or consistency; contrariwise, however, in spite of the provisional "made" categorization attached to this class, virtually all imports were admitted under tariff item 49211-1, providing for "not made" goods.

On the basis of the foregoing, the Board has concluded that it is not possible to create eo nomine listings with respect to goods to be covered by any replacement for items 49210-1 and 49211-1.

Accordingly, in this instance, the Board is of the opinion that, given the introduction of new tariff provisions for general-purpose goods, the circumstances are such that the remaining products classifiable under the present items should be given treatment paralleling that available to machinery in general. These products would, in the main, consist primarily of machines for gas recovery and distillation. Therefore, the Board recommends that tariff items 49210-1 and 49211-1 be modified by adopting the following nomenclature and rates of duty:

49210-1 Machinery and apparatus for use in the distillation or
recovery of products from natural gas; parts thereof

5 p.c.

9.2 p.c.

25 p.c.

5 p.c.

9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

Tariff Items 49215-1 and 49216-1

Existing Tariff Provisions

Machinery and apparatus for use in producing unrefined oil from shales or for operating oil-sands by mining operations or for extracting oil from the sands so mined:

49215-1	Of a class or kind made in Canada; parts thereof				
1/1/82	5 p.c.	8.8 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87		6.8 p.c.		4.5 p.c.	
49216-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

Under both items the M.F.N. rate was bound at 6.8 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49216-1. It will be noted that the classification of parts follows that of the relevant machinery or apparatus, and is not dependent upon the made-in-Canada status of the parts themselves.

The provisions of these two tariff items are considered to be all-embracing, and thus to include all machinery and apparatus, and parts thereof, imported for the purposes specified in the preamble to the items, with the exception of goods provided for in tariff items 49217-1 and 49220-1, as follows:

49217-1	Walking draglines, electrically operated, for use in open-pit mining, and parts thereof				
	Free	Free	Free	Free	Free

49220-1 Materials for use in the manufacture of the goods specified in tariff items ... 49215-1, 49216-1 and 49217-1

Free

Free

Free

Free

Free

Tariff item 49217-1 was introduced into the Customs Tariff as a result of the MTN negotiations. With respect to both this item and item 49220-1 free entry under the M.F.N. Tariff is bound under GATT.

In the absence of items 49215-1 and 49216-1, much of the machinery would be classified under item 42700-1 and be subject to the Machinery Duty Remission Program. Some of the other goods (including apparatus) would be classified under provisions encompassing unspecified manufactures of various metals or under parts of the electrical schedule.

Imports

Between the years 1966 and 1980 inclusive, the largest importations under these provisions occurred in 1976, when goods valued at \$16.0 million and \$89.2 million entered under tariff items 49215-1 and 49216-1 respectively. Subsequently, during the years 1978-80, goods with average annual values of \$7.7 million and \$15.3 million were imported. In 1981, imports were valued at \$12.1 million and \$25.2 million. Parts (as opposed to finished products) appear to have accounted for approximately two-fifths of recent imports under the "made" item (49215-1) and for four-fifths of imports under the counterpart provision (49216-1).

Submissions

Twelve of the submissions received by the Board made reference to goods falling within the ambit of the aforementioned tariff items. Most of the pertinent briefs have already been reviewed by the Board in the context of other tariff provisions. To avoid unnecessary duplication, the reader is referred to the Board's report on tariff items 41013-1 and 41014-1 for an account of the representations made by Greening Donald Co. Ltd. and Wire Rope Industries Ltd. (concerning wire rope), and Union Carbide Canada Limited (with respect to carbon and graphite brushes when for use in motors, compressors and

generators).⁽¹⁾ The Board's report on tariff items 49104-1 and 49105-1 should be consulted for a summary of the observations of Canadian General Electric Company Limited (in regard to steam turbine generator sets, and electric motors, nes), Canadian Boilers Limited (respecting high pressure steam generators), and Harding Instruments Co. Ltd. (pertaining to flow meter equipment).⁽²⁾

In other submissions, Cooper Energy Services Ltd., whose production interests in the sphere of heavy industrial power and compression machinery have also been recorded in connection with the Board's review of tariff items 49104-1 and 49105-1,⁽³⁾ observed that to date there had been no application for the company's machinery in the areas of shale or oil-sands production, "although there could in future be such applications for in situ recovery". More positively, the Gear Products Section of the Machinery & Equipment Manufacturers' Association of Canada indicated the existence of domestic manufacturing capability with respect to speed reducers (already reported under tariff items 41022-1 and 41023-1)⁽⁴⁾ and toothed meshing pulleys, tentatively equated by MEMAC with c.c. 504-44-61 ("pinions, power transmission, gear type").

As a major user of goods entering under items 49215-1 and 49216-1, Syncrude Canada Ltd. of Edmonton, Alta., submitted the most comprehensive brief pertaining thereto. The company indicated its belief that "end use classification of tar sands items is important and should continue". It advocated retention of arrangements whereby general-purpose equipment can enter duty free under tariff item 49216-1 when forming part of qualifying "not made" machinery or apparatus. Moreover, qualifying goods should include equipment not imported directly by the user but ordered through a Canadian supplier, who becomes the importer of record. While the company favoured the development of an eo nomine listing of "made" goods, and the use of a duty-free n.o.p. ("not otherwise provided for") provision to cover all other

(1) Supra, pp. 66-7.

(2) Supra, pp. 103, 104.

(3) Supra, p. 103.

(4) Supra, p. 78.

commodities, including newly-developed products, it proposed that "the present system of obtaining Departmental Rulings remain in effect until such time that it be superseded by the eo nomine approach regarding tariff item 49215-1". It was felt that the development of an eo nomine system of classification "will require considerable time, effort and review of the items to be categorized", and it was suggested that a uniform procedure should be established for the reclassification of goods under "made/not made" tariff provisions in order to minimize any inconvenience or uncertainty. Finally, the company proposed that the Machinery Duty Remission Program should be retained "as it supports end users when certain machinery is not available in Canada". As part of its brief, Syncrude Canada Ltd. cited various unpublished customs rulings applying to certain of the goods encompassed by the aforementioned tariff items. Particulars may be found in the relevant staff appraisal.⁽¹⁾

In less detailed submissions, Goodyear Canada Inc. of Islington, Ont., opined that "made in Canada" status should apply to c.c. 493-29-79 ("hose, rubber, reinforced nes, with or without coupling"); while Allis-Chalmers Canada Inc. of Lachine, Que., reported that it manufactures "conditioning drums ... used to separate oil from the sand using a thermal process", probably classifiable under c.c. 521-79-71 ("extracting machinery, thermal type, oil sands"). Both of the abovementioned commodity classes were given an "uncertain" listing in the staff appraisal. Finally, R. Angus, Alberta Limited (representing Caterpillar Tractor Co.), distributors of large earthmoving, hauling, grading and loading equipment, proposed the replacement of the "made/not made" formula by the "availability" concept, so as to "permit" additional end user cost savings when a unit made in Canada is not available for immediate delivery to the energy resource development industry". In this connection, specific reference was made to wheel loaders, hydraulic excavators, generator sets and fork lift trucks.

(1) Ibid., p. 60.

Conclusions and Recommendations

The staff appraisal listed 71 commodity classes which were felt to be relevant to machinery or apparatus classified under the items.⁽¹⁾ Several classes were included even though they more probably related to goods admitted as "parts", where the made-in-Canada status is not directly relevant, rather than to "apparatus", where such status is of concern. Thirty-four of the specified commodity classes are applicable to goods being dealt with under the proposed new tariff provisions for general-purpose goods - viz: listed classes 468-09-89 to 468-44-89, 501-49-71 to 503-69-89, 504-40-89 to 509-40-90, and 771-22-20 to 771-22-89. Consideration of these classes is deferred until later.⁽²⁾

Of the remaining 37 commodity classes, 16 were provisionally determined to be "made", two were accorded a "not made" designation, one was judged to cover both "made" and "not made" sub-classes, 17 were given an "uncertain" made-in-Canada listing, and one was sub-divided into "not made" and "uncertain" elements.

On the "not made" side, the residual classes and sub-classes were: c.c. 387-09-40 ("belting, conveyor, vinyl coated"); c.c. 469-99-40 ("tubing, flexible metal, except electric"); c.c. 521-36-30 ("loader, front end, integral excavating, wheel type" - over 15 cu. yd. bucket capacity), the remainder of this class being identified as "made"; and c.c. 521-39-89 ("excavating machinery, nes" - bucket wheel reclaimer with bucket capacity of 2.48 cu. yd. or more), the residual goods in this class being accorded an "uncertain" made-in-Canada rating. However, with respect to these determinations, further inquiries have revealed the existence of several Canadian producers of goods falling into c.c. 521-39-89 (excavating machinery), and this class as a whole has now been categorized by the Board as "made".⁽³⁾ Further, a review of import data for the years 1978-81, indicates vinyl-coated

(1) Ibid., pp. 60-2.

(2) Infra, pp. 124-33.

(3) See Appendix IV, infra, p. 336.

conveyor belting being imported in substantial quantities under "made" tariff item 49215-1, but not entering at all under item 49216-1; accordingly, the Board has thought to recognize what appears to be the fact of Canadian production by according the relevant commodity class (387-09-40) a "made" determination.

With respect to the commodity classes categorized in the staff appraisal as having an "uncertain" made-in-Canada identity, the Board, on the basis of submissions received from interested parties, has now given a "made" rating to c.c. 493-29-79 ("hose, rubber, reinforced nes, with or without coupling") and to conditioning drums encompassed by c.c. 521-79-71 ("extracting machinery, thermal type, oil sands"). Further, in regard to the remaining "uncertain" classes, the Board, in the light of additional information received and/or a review of pertinent import data, has concluded that the following categories of goods are domestically produced: c.c. 447-39-40 ("railway rails, iron or steel, 100 lb and over per yard"); c.c. 448-69-45 ("tubing, mechanical, alloy steel except stainless steel, seamless, new"); c.c. 468-55-90 ("pipe fittings, iron and steel, welding types, finished, nes"); c.c. 474-99-30 ("belting, asbestos"); c.c. 504-05-39 ("bearing, ball, 1-row, over 0.5 to 7.5 inches outside diameter, nes"); c.c. 504-16-49 ("bearer, taper roller, thrust type, nes"); c.c. 509-79-23 ("filters, gas, electrostatic type, industrial"); and c.c. 653-69-90 ("heaters, water tank, electric, nes").⁽¹⁾

The evidence relating to the following "uncertain" classes suggests to the Board that they should be categorized as "not made in Canada": c.c. 448-68-35 ("pipes, standard, stainless steel, seamless, new"); c.c. 448-68-55 ("pipes/piping, pressure, stainless steel, seamless, new"); c.c. 467-17-30 ("wire electrode, welding, mild steel, flux cored"); c.c. 504-15-59 ("bearing, spherical roller, single row, nes"); c.c. 521-31-13 ("bucket, dragline, power shovel/crane, excavating").

(1) See Appendix IV, infra, pp. 324-38.

With regard to the remaining "uncertain" classes - namely, c.c. 521-79-71 ("extracting machinery, thermal type, oil sands" - except insofar as it applies to conditioning drums), c.c. 521-79-79 ("oil producing machinery/equipment, oil sands, nes"), and c.c. 521-79-89 ("oil/petroleum field production machinery/equipment, nes"), as well as two classes hitherto listed as "made", namely, c.c. 521-79-29 ("pumping machinery/equipment, sub-surface, oil well, nes") and c.c. 703-78-10 ("processing and multi-function control machinery/apparatus, nes") - the Board notes that these are broad general descriptions, and while the available evidence indicates that they each cover a number of different classes or kinds of "made" and "not made" goods, it is insufficient to enable a determination to be made as to which goods, apart from conditioning drums, are "made" and which are "not made".

With regard to specific recommendations, the Board finds merit in the case put forward by Greening Donald Co. Ltd. and Wire Rope Industries Ltd. with respect to wire rope.⁽¹⁾ It feels, however, that for the end uses presently under review, wire rope should not be dutiable at a rate higher than that applicable to other "made" goods.

Respecting the form of the replacement provisions for existing items 49215-1 and 49216-1, the fact that there are substantially fewer "not made" - as opposed to "made" - classes of goods (including those in the residual "nes" category), leads the Board to incline towards an eo nomine listing of "not made" goods (to be allowed duty-free entry) rather than a specification of "made" products, as proposed by Syncrude Canada Ltd. From such a listing of "not made" goods the Board would exclude the indeterminate classes referred to in the penultimate paragraph. The Board would also exclude c.c. 467-17-30 ("wire electrode, welding, mild steel, flux cored") and c.c. 504-15-59 ("bearing, spherical roller, single row, nes") inasmuch as the relevant goods are almost certainly parts or - in the case of electrodes - materials. Similarly, c.c. 521-31-13 ("bucket dragline, power shovel/crane, excavating") has been ruled out since it appears under the 5-digit c.c. 521-31 ("parts of powered excavator type cranes and shovels, nes"). With respect to products

(1) For further on this, see supra, p. 71.

not included in the duty-free listing, allowance should be made for the broad scope of certain of the relevant commodity classes so as to facilitate the development of the energy resources to which these tariff provisions relate. Consequently, the Board recommends that all other goods be made dutiable, with provision for the remission of duty on goods not available from Canadian production.

The Board also notes that tariff item 49220-1 will continue to afford, to Canadian manufacturers of relevant equipment, duty-free access to needed materials regardless of the made-in-Canada status of the products involved.

The Board has also taken note of the concern of the Canadian Petroleum Association that the existing preamble to tariff items 49215-1 and 49216-1 does not necessarily cover the processes now available for recovering marketable crude oil from tar-sands. It, therefore, suggests appropriate amendments.

To replace tariff items 49215-1 and 49216-1, the Board recommends the following:

Machinery and apparatus for use in recovering and producing crude oil from shales, oil-sands or tar-sands; parts of the foregoing:

49215-1 Other than the following

5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.
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Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

49215-2	Flexible metal tubing, non-electric; Stainless steel seamless pipes or piping; Wheel type integral excavating front-end loaders with bucket capacity in excess of 15 cubic yards, and parts thereof				
	Free	Free	Free	Free	Free
49216-1	Wire rope which would otherwise be classifiable under tariff item 49215-1, 49215-2 or 49217-1				
	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.

New Tariff Provisions For General-Purpose Machinery And Apparatus

Introduction

In the course of the review of the commodity classes found to be relevant to the tariff items in Groups 1 and 2 of Phase I of this reference, the recurrence was noted of various classes relating to what might be described as "general-purpose goods", i.e. products that are probably not end-use specific. In such a case, a compressor, for example, would be entered under a particular tariff item when for one specific end use, while a virtually identical compressor would be classified under a totally different item, at either the same or some other rate of duty, when for another specific end use.

The mode of classifying general-purpose goods under provisions in the mining machinery and oilfield equipment schedules varies somewhat from item to item. Certain of the items make specific reference to such goods. Thus, "conveyors" are named in item 41012-1 Ex.; "air engines", "flame-proof enclosed driving motors", "pumps, vacuum pumps, fans, blowers or compressors" are listed in items 41013-1 and 41014-1; "fans, blowers or compressors, of iron or steel" are featured in items 41022-1 and 41023-1; while "chemical injection pumps" are specified in items 49201-1 and 49202-1.

General-purpose goods may also enter as "machinery" or "apparatus", or as "parts" of products. The relevant items are: 41013-1, 41014-1, 41021-1 Ex., 41022-1, 41023-1, 41026-1, 41027-1, 41031-1, 41032-1, 49104-1, 49105-1, 49210-1, 49211-1, 49215-1 and 49216-1. In the case of items 41001-1 and

41002-1, such goods may enter only as "parts". The following are examples of classes of goods with broad applications that enter as "machinery" or "apparatus", and/or as "parts" under a number of the referred items: valves, boilers, engines of all kinds, turbines, electric motors, speed changers, gears, pumps, fans, blowers, compressors, heat exchangers, generators and electronic automatic data-processing equipment.

Classification of these various general-purpose products as "parts" presents a special problem. With the exception of items 49104-1 and 49105-1, parts are classified under the aforementioned items, not on the basis of their own made-in-Canada status, but rather on that of the goods of which they form a part. Thus, the made-in-Canada status of parts is not directly relevant except in the case of tariff items 49104-1 and 49105-1, which also cover, respectively, "made" and "not made" parts of the goods admissible under non-referred tariff item 49103-1.

Inasmuch as the Board is elsewhere⁽¹⁾ recommending the simple deletion of the referred provisions of tariff items 41012-1 and 41021-1, the subject of conveyors is not further considered here, even though there are some relevant imports under some of the other cited items. Further, the paucity of imports of general-purpose goods of any kind under tariff items 41001-1 and 41002-1 removes them from further consideration in the present context. Consequently, in what follows, consideration is given only to imports of the classes of goods cited in the preceding paragraph under eight pairs of referred items: 41013-1 and 41014-1; 41022-1 and 41023-1; 41026-1 and 41027-1; 41031-1 and 41032-1; 49104-1 and 49105-1; 49201-1 and 49202-1; 49210-1 and 49211-1; 49215-1 and 49216-1.

Submissions

Most of the submissions relevant to the goods under review have been dealt with elsewhere in Chapters 4 and 5 of this report. Some views received in response to the staff appraisals merit mention here in that they refer specifically to products now under review.

(1) Supra, pp. 62, 75.

Canada Valve Limited of Milton, Ont., in addition to providing information respecting the classes of valves manufactured by the company, objected to the present situation, whereby valves, constituting parts of products for specified end uses, can enter free of duty or at rates lower than those accorded under tariff item 44607-1 to iron or steel valves in general, even when the valves themselves are of classes or kinds made in Canada. Taylor Tools of Oklahoma City, Oklahoma, U.S.A., informed the Board of its intention to produce valves in Canada, and expressed the hope that recommendations arising out of the reference would not deprive the company of competitive advantages available to Canadian-made goods under the existing tariff provisions.

Volcano Inc. of St. Hyacinthe, Que., objected to the classification of water tube type power boilers over 150,000 lb/hr as "not made" on the ground that the company produces such boilers with a capacity of up to 165,000 lb/hr. It suggested that the made-in-Canada status attached to c.c. 501-19-21 should be changed to "made". Canadian Boilers Limited of Mississauga, Ont., expressed the view that steam generators or boilers for heavy oil recovery are essentially the same as those used in industrial applications and should not receive a more favourable rate of duty.

Cooper Energy Services Inc., in addition to reiterating its views in general, provided further information with respect to the ratings of compressors manufactured by the company. It also pointed out that it is not concerned with products for use in mining or the development of deposits of potash or rock salt; its production, in the context of the end uses presently under review, is directed at the oil and natural gas industries. Chicago Blower Canada Ltd. of Winnipeg, Man., made a submission with respect to axial and centrifugal fans (c.c. 507-99-35 and 501-99-36), manufactured by the company. Canadian General Electric Company Limited advised that it produces thyristor-controlled motors, listed in the staff appraisal as "not made", and steam turbine generator sets, listed as "uncertain". The comments of Westinghouse Canada Inc. of Hamilton, Ont., with respect to turbine parts classifiable under tariff item 44210-1,⁽¹⁾ are also relevant to such parts

(1) Infra, p. 186.

encompassed by c.c. 502-40-88 (below). The Board's final definitions and recommendations, however, are derived from its conclusions with respect to tariff item 44210-1.

The Machinery & Equipment Manufacturers' Association of Canada provided information with respect to gear products manufactured in Canada, while Hamilton Gear and Machine Company (a division of Compro Limited), Toronto, Ont., provided information with respect to its production of gear reducers for oilfield pump units. Finally, C.K. Steel & Machinery (a division of TIW Industries Ltd.), Calgary, Alta., presented information with respect to heat exchangers (c.c. 509-40-15 to 509-40-90), produced by the company.

Conclusions and Recommendations

The Board has carefully weighed the advantages and disadvantages attendant upon the establishment of a new item for general-purpose goods presently classifiable under the referred tariff provisions in the mining machinery and oilfield equipment schedules. Among the disadvantages, such a departure would, as already noted, alter the existing relationships between goods and parts, except in the case of tariff items 49104-1 and 49105-1; generally speaking, in this reference, the Board has sought to avoid doing this. However, in this instance, the "parts" are often themselves finished goods. There is the further consideration that various goods of a general-purpose nature enter under other (non-referred) provisions in the mining machinery and oilfield equipment schedules. This, together with the different forms of nomenclature in the existing tariff items - in some cases, goods are specifically named (and would be deleted), while in other instances they are covered by references to "machinery and apparatus", or to "parts" (that would be retained) - would make necessary a rather elaborate preamble to the eo nomine listing in order to ensure that all relevant products are covered but that the recommendations go no further. Finally, of the eight pairs of items involved, six have bound rates, under the MTN of 9.2 p.c., while the other two are bound at 6.8 p.c.

On the other hand, the resultant ease of classification and the elimination of lengthy, duplicated eo nomine listings are desirable objectives. While, at this point, the end-use considerations cannot be abandoned without exceeding the scope of the reference, the simplification of the provisions for general-purpose goods is a step towards harmonizing the Canadian tariff nomenclature with the internationally-accepted Customs Co-operation Council Nomenclature (CCCN). Further, several interested parties spoke in support of the desirability of such a consolidation of provisions for general-purpose goods.

The Board finds that the arguments in favour of combined tariff provisions for these goods outweigh the disadvantages. It, therefore, proposes to combine, insofar as they are now covered by the eight pairs of referred tariff items cited above, the following goods and their parts, in all 7-digit commodity classes covered:

- valves falling in all classes commencing with the five digits 468-09, 468-19, 468-29, 468-44, 468-48 and 504-87;
- power boilers falling in all classes commencing with the three digits 501;
- engines and turbines falling in all classes commencing with 502;
- electric generators and motors falling in all classes commencing with 503;
- speed changers and speed increasing or reducing units in all classes commencing with 504-40;
- power transmission gears and parts in all classes commencing with 504-44;
- hydraulic couplings in classes commencing with 504-81;
- hydraulic cylinders in classes commencing with 504-83;
- hydraulic pumps in classes commencing with 504-85;
- power transmission equipment in classes commencing with 504-89 and 504-99;
- air and gas compressors, blowers and vacuum pumps in classes commencing with 507;
- pumps in classes commencing with 508;
- heat exchangers in classes commencing with 509-40;
- pumps in classes 521-17-85, 521-79-21, 521-79-22 and 521-79-23;
- electronic computers and parts in classes commencing with 771-22.

In the staff appraisals, a provisional made-in-Canada ("made", "not made" or "uncertain) determination was attached to each of the aforementioned 7-digit commodity classes recorded under the referred items. On the basis of

information developed in response to the staff appraisals, the made-in-Canada designations of a number of these classes have subsequently been changed. For a listing of those classes formerly designated as "uncertain" or "not made" but now determined to be "made" - and of the Canadian producers of the pertinent goods - reference should be made to Appendix IV.⁽¹⁾

Further, with respect to the ranges of goods specified above, the following comprises a complete listing of all those definable classes, groups of classes and parts of classes which the Board, for present purposes, would now define as "not made in Canada". Classes marked with an asterisk (*) are, however, considered to be too imprecise for use in constructing an eo nomine nomenclature. The Board has also noted the existence of a number of other commodity classes which have apparently been applied to both "made" and "not made" goods, perhaps because they are broad enough to encompass more than one "class or kind" of product. In the construction of an eo nomine listing of "not made" products, the Board feels that these classes should also be excluded.

Commodity Class and Description

468-19-26	Valves, ball, iron, except power - over 2" screwed
468-19-27	Valves, plug, iron, except power - over 12" screwed
468-19-37	Valves, plug, steel, except power - to 4" screwed/12" flanged with 900 ASA rating & over - over 4" screwed/12" flanged
*468-44-59	Valves, air control, nes - over 4"
*468-44-69	Valves, pressure regulating, nes
501-19-21	Boilers, power, water tube type, package unit - over 165,000 lb/hr
*501-19-89	Boilers, power, nes - other than field erected power boilers to 500 mw
502-18-	All goods covered by classes commencing with these five digits, except diesel engines having a continuous rated brake horsepower within the range 700 to 4,500 inclusive together with a piston displacement of not less than 600 and not more than 700 cubic inches per cylinder, and parts thereof

⁽¹⁾ Infra, pp. 324-38.

- 502-25-89 Engines gas, nes, over 50 bhp
 - to 75 bhp
- 502-40-29 Turbine, gas, nes, 1,000 hp and less
- 502-40-88 Turbines, gas, general purpose type, parts of
 - spindle discs, shafts, blade diaphragms, rotors and machined blades for turbines with ratings over 50,000 hp
- 502-40-89 Turbines, gas, nes 20,000 hp and over
 - over 50,000 hp
- 502-69- All classes commencing with these five digits, relating to air motors, and parts thereof
- 502-99-32 Engines, natural gas fired, general purpose, less than 3,000 or more than 8,000 hp
- 502-99-49 Motors, hydraulic, general purpose, nes
- 502-99-74 Engines, compressed gas, without combustion, general purpose
- *502-99-89 Engines, general purpose, nes, under 1,000 and over 8,000 hp
- 503-67-60 Motors, electric, AC, over 200 hp
 - over 1,500 hp
- *503-69-39 Motors, electric, position indicating, nes
- 503-69-40 Motors, electric, DC, 1/3 hp and under
- 503-69-41 Motors, electric, DC, over 1/3 hp to 1 hp inclusive
- 504-40-85 Speed reducer, planetary gear type
 - other than 25:1 to 64:1 speed ratios and 5 to 30 hp
- 504-81-20 Couplings, hydraulic, power transmission
- 504-85 All classes commencing with these five digits, relating to hydraulic pumps, and parts thereof
- 504-99-39 Power transmission equipment, pneumatic, nes
- *504-99-88 Power transmission equipment, nes, parts of
- *504-99-89 Power transmission equipment, nes
- 507-11-11 Compressors, air, stationary, reciprocating, liquid cooled, 9 hp and less
- 507-11-35 Compressors, air, stationary, reciprocating, air cooled 51-150 hp
- 507-11-41 Compressors, air, stationary, rotary, vane/screw
 - other than vane 30-40 hp and screw 40-50 hp
- 507-11-42 Compressors, air, stationary, rotary, centrifugal under 750 & over 140,000 cfm
- 507-11-51 Compressors, gas, stationary, reciprocating, 250 hp and under
 - under 150 hp
- 507-11-63 Engine-compressors, gas, reciprocating
 - under 90 and over 13,500 hp
- 507-11-65 Compressors, gas, diaphragm type
- 507-29-31 Compressor, air, portable, 1,400 & over
 - over 1,600 cfm
- 508-04-50 Pump, centrifugal, multi-stage, single suction
 - with head over 800 psi

- 508-50-24 Pump, reciprocating, plunger types, power
 - over 80 gpm or 3,300 psig
- 508-50-54 Pumps, chemical, power
 - chemical injection pumps
- 508-95-25 Pumps, jack
 - over 640 in/lb torque rating
- 508-95-28 Pump, jack, parts of
 - other than box rating
- 509-40-50 Heat exchanger, for cryogenic service, industrial
 - braized aluminum
- 521-79-23 Pump, liquid petroleum gas, oilfield
- 771-22 All classes commencing with these five digits, relating to electronic computers, and parts thereof

With respect to flameproof enclosed driving motors, there does not appear to be a commodity class specific to these goods. However, as noted in regard to tariff items 41013-1 and 41014-1,⁽¹⁾ flameproof motors approved for use in coal mining operations are reportedly made in Canada.

Some representations were received suggesting that certain goods of a class or kind not made in Canada should be treated as "made" because they compete, to a greater or lesser degree, with "made" goods.⁽²⁾ Throughout this report, the Board has generally rejected this argument as a basis for alterations in its "made" and "not made" classifications.

The Board, therefore, recommends the insertion into Schedule "A" of the Customs Tariff, of the following enumerations of goods and rates of duty:

Valves, power boilers, engines, turbines, electric generators and motors, mechanical power transmission equipment not including bearings or pulleys, air and gas compressors, fans and blowers, pumps of all kinds, heat exchangers and electronic automatic data-processing equipment; all the foregoing when otherwise classifiable under tariff item 41013-1, 41013-2, 41022-1, 41022-2, 41026-1, 41031-1, 49104-1, 49104-2, 49201-1, 49210-1, 49215-1 or 49215-2, or when for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants;

(1) Supra, p. 66.

(2) See, for example, the submission of Cooper Energy Services Ltd., supra, p. 103.

Air engines, flameproof enclosed driving motors, pumps, vacuum pumps, fans, blowers or compressors, when for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals;
Fans, blowers or compressors, of iron or steel, for use in the smelting or refining of ores, metals or minerals;
Chemical injection pumps for use in connection with oil or natural gas wells for installation between the well-head assembly or surface oil pumping unit and the field marketing valve;
Parts of all the foregoing:

41047-1 Other than the following

5 p.c.	9.2 p.c.	22.5 p.c.	5 p.c.	9.2 p.c.
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41047-2 Other than the following, when otherwise classifiable under tariff items 49201-1, 49215-1 or 49215-2

5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.
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41047-3 Valves, iron, other than power valves, namely:

ball valves over 2 inch screwed,
plug valves over 12 inch screwed;

Plug valves, steel, other than power valves, over 4 inch screwed/12 inch flanged or with an ASA rating of 900 or more;

Power boilers, water tube type, package units, with a capacity in excess of 165,000 lb/hr;

Semi-diesel engines;

Diesel dual fuel engines;

Diesel engines having a continuous rated brake horsepower of less than 700 or more than 4,500 or having a piston displacement of less than 600 or more than 700 cubic inches per cylinder;

Engines, gas, with a brake horsepower not in excess of 75;

Turbines, gas, rated at less than 1,000 hp or more than 50,000 hp;

Air motors;

Natural gas-fired, general-purpose engines, rated at less than 3,000 hp or more than 8,000 hp;

Hydraulic general-purpose motors;

Compressed gas general-purpose engines without combustion;

Electric AC motors, rated at more than 1,500 hp;

Electric DC motors, rated at not more than 1 hp;

Flameproof enclosed driving motors, other than induction motors rated from 1 hp to 600 hp for use in underground coal mining;

Planetary gear type speed reducers other than those with 25:1 to 64:1 speed ratios and 5 to 30 hp;

Hydraulic couplings for power transmission;
Hydraulic pumps;
Pneumatic power transmission equipment;
Air compressors, namely:
 portable, over 1,600 cfm,
 stationary, reciprocating, liquid cooled, rated at 9 hp
 or less,
 stationary, reciprocating, air cooled, rated from 51 hp
 to 150 hp,
 stationary, rotary, vane/screw, with ratings other than
 vane 30-40 hp or screw 40-50 hp,
 stationary, rotary, centrifugal, rated at under 750 cfm
 or over 140,000 cfm;
Gas compressors, namely:
 stationary, reciprocating, rated at less than 150 hp,
 diaphragm type;
Engine-compressors, gas, reciprocating, rated at less
 than 90 hp or more than 13,500 hp;
Centrifugal, multi-stage, single suction pumps, with head
 over 800 psi;
Power pumps, reciprocating, plunger type, rated at more
 than 80 gpm or 3,300 psig;
Chemical injection pumps;
Jack pumps over 640 in/lb torque rating;
Liquid petroleum gas pumps;
Braised aluminum heat exchangers for cryogenic service;
Electronic automatic data-processing equipment;
Parts of all the foregoing

Free

Free

Free

Free

Free

The recommended rates under the General Preferential Tariff are based on the assumption that this Tariff will still be in effect in 1987, with rates calculated as at present. Recommended item 41047-1 would draw primarily from tariff items 41013-1, 41022-1, 41026-1, 41031-1, 49104-1 and 49210-1, all of which have a bound M.F.N. rate of 9.2 p.c. The present General Tariff rate under item 49104-1 is 20 p.c.; under all the other items it is 25 p.c. For the new provision the Board recommends a General rate of 22.5 p.c. Recommended item 41047-2 would draw primarily from items 49201-1 and 49215-1, which have bound M.F.N. rates of 6.8 p.c. and General rates of 20 p.c.

CHAPTER 6. SPECIAL PURPOSE PLANT MACHINERY
AND MISCELLANEOUS GOODS I

Introduction

The "plant machinery" provisions denoted by the above heading comprise four tariff items governing the importation of capital equipment used in the manufacture of textiles, leather goods, clay products and beet sugar respectively, and a fifth item relating, more generally, to ozone generators and airifiers. The "miscellaneous goods" provisions encompass fire-brick, certain shapes and sections of iron or steel, guns and rifles, invalid chairs and suchlike goods specially designed to assist the disabled, and paper or fibreboard for use in the manufacture of artificial resins and primary plastic shapes and forms. With the exception of tariff item 47285-1 (relating to "made" aids for the disabled) all of the aforementioned items pertain to goods "of a class or kind not made in Canada".

Of the 12 tariff items here reviewed all but two elicited submissions from interested parties. Judged from the standpoint of the number of submissions received, tariff item 28105-1 (pertaining to fire-brick) appears to have been the subject of most widespread concern, attracting a total of five briefs from individual companies and industry groups.

The interest evidenced in this item was doubtless stimulated, in part, by the substantial value of imports entering thereunder, although, in this regard, it was surpassed by tariff item 41305-1 (pertaining to textile machinery).⁽¹⁾ Indeed, over three-quarters of the total value of imports admitted under the tariff provisions reviewed in this section (averaging \$239 million per annum in 1979-81) was attributable to these two items and to tariff item 44125-1 (relating to guns and rifles).

Reflecting the general slowdown in economic activity in the early 1980's, imports under most of the pertinent items have either declined or shown only moderate growth since 1979, thus contrasting with the generally rapid expansion which occurred in the immediately preceding years.

(1) See Appendix III, infra, p. 319.

Tariff Item 19755-1

Existing Tariff Provisions

This item provides for:

Paper or fibreboard, decorated or not, of a kind not produced in Canada, for use only in the manufacture of goods described in headings 93901 to 93905

Free	Free	25 p.c.	Free	Free
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Free entry under the M.F.N. Tariff is bound under GATT.

The item provides for paper or fibreboard material used in making laminated plastic sheets and other shapes. Also allowed entry under this item is a product described as "release paper" used in the production of polyurethane foam, as well as a type of paper used in manufacturing meat casings. It will be noted that under this item goods are to be "of a kind" not produced in Canada. The term "kind" has generally been interpreted very narrowly by Revenue Canada; for a product to be excluded as being "of a kind" made, there would have to be a virtually identical Canadian product. It would, therefore, be possible for a product entered under this item to be "of a class produced" but "of a kind not produced" in Canada.

Products excluded from tariff item 19755-1 because they are considered "made", or are like products imported for other uses, would, in the absence of any other relevant end-use item, generally be dutiable under various items for which the final MTN bound rates are 6.5 p.c., 9.2 p.c. and 10.2 p.c., with the latter two rates being most relevant. It should also be noted that the goods covered by item 19755-1, being materials for use in Canadian manufactures, are susceptible to treatment under section 273 of the Customs Act.⁽¹⁾

(1) See supra, p. 33.

Imports

The average annual value of imports under item 19755-1 in 1978-80 was \$16.8 million. 1981 imports totalled \$22.4 million.

Submissions

Union Carbide Canada Limited of Toronto, Ont., submitted one of the two briefs received regarding tariff item 19755-1. The company expressed satisfaction "with the present tariff coverage" of this item, and proposed that "no change be made" in the duty-free status of goods entering thereunder. In this connection, Union Carbide was referring particularly to the dutiable status of a product which it imported under the trade name of "Dexter" paper, this being a fibrous base stock paper for use in the manufacture of non-edible food casings.

In the second submission, Cyanamid Canada Inc. of Willowdale, Ont., which imports materials for use in the production of decorative laminated plastic sheets, noted that the papers required for this process are highly specialized, varying in "basis weight, fibre length, porosity for resin penetration etc." Thus, a wide range of individual paper types may be used in this process, and this has tended to make it economically unattractive for Canadian producers to enter the market. However, "a small quantity of specific patterned paper ... suitable for this end use" is made by Rolland Inc. (formerly Rolland Paper Co. Limited) of St. Jerome, Que., while glassine, which "is used as a release paper to keep the 'sandwiches' of resin-treated paper from welding to each other during the pressing operation", is manufactured by Glassine Canada Inc. of Quebec, Que. Neither of the two aforementioned paper manufacturers has made a submission to the Board, although it is understood from Cyanamid Canada Inc. that Rolland Inc. "are not concerned about the duty-free provisions of 19755-1".

Thus, in Cyanamid's view, the interests of the various parties concerned could be satisfactorily reconciled in the following revised wording of the item:

Paper or fibreboard, not including glassine, decorated or not, for use in the manufacture of goods described in headings 93901 to 93905.

Conclusions and Recommendation

The Board is not aware of any Canadian producers of the goods encompassed by tariff item 19755-1 other than those named in the brief submitted by Cyanamid Canada Inc. Given that most of the pertinent commodities are apparently "of a kind not produced in Canada",⁽¹⁾ it appears to the Board that deletion of this clause from the existing item would provide a simple and neat tariff solution, leaving only the interests of the Canadian producer of glassine to be accommodated. It is assumed that as a "made" product, this latter commodity presently falls - and, if excluded from any new tariff arrangement, subsequently would fall - under tariff item 19700-1 ("paper and paperboards of all kinds, n.o.p."), with a scheduled rate of M.F.N. duty, effective January 1, 1987, of 9.2 p.c.

Therefore, the Board, in adopting a slightly modified version of the nomenclature put forward by Cyanamid Canada Inc., recommends that tariff item 19755-1 be reworded as follows:

19755-1 Paper or fibreboard, decorated or not, not including glassine, for use only in the manufacture of goods described in headings 93901 to 93905

Free	Free	25 p.c.	Free	Free
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Tariff Item 28105-1

Fire-brick, n.o.p., of a class or kind not made in Canada, for use exclusively in the construction or repair of a furnace, kiln, or other equipment of a manufacturing establishment

Free	Free	15 p.c.	Free	Free
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(1) Staff Appraisal. Special Purpose Plant Machinery and Miscellaneous Goods
I, p. 23.

When this item was scheduled for hearing, The Refractories Association of Canada drew the Board's attention to representations it had made to the Department of Finance with a view to obtaining a complete revision of the tariff provisions for fire-brick and for refractory specialties, i.e. products such as ramming mixes, gunning mixes and castables, used in situ in conjunction with, or substitution for, fire-brick.

After consultations, it was agreed with the Department of Finance that the Tariff Board would consider the entire package put forward by the Association and submit a report thereon at the earliest possible date.

Accordingly, an interim report on Reference No. 157, entitled Tariff Items Covering Goods Made/Not Made in Canada: Fire-brick and Related Products was tabled in the House of Commons on November 6, 1981. This report, containing the Board's recommendations in regard to tariff item 28105-1 and other related items, is reproduced in its entirety as an appendix to this study.⁽¹⁾

Tariff Items 38002-1 and 38003-1

Existing Tariff Provisions

These two tariff items form part of a group of six items with a common preamble, which consequently forms part of the text of each item. The full text of these two items is:

Shapes or sections of iron or steel, not further manufactured than hot- or cold-rolled:

38002-1 Wide-flange beams more than ten inches but not more than
 eighteen inches in depth; when not made in Canada
 per ton

1/1/82	Free	\$4.17	\$20.00	Free	Free
1/1/87		Free			

(1) See Appendix VI, infra, pp. 347-59.

38003-1 Angles more than six inches in length of either leg;
 beams, including wide-flange beams, more than eighteen
 inches in depth; channels more than fifteen inches in
 depth, zees more than six inches in depth of any leg;
 all the foregoing when not made in Canada

Free Free 10 p.c. Free Free

For both items, free entry under the M.F.N. Tariff (not effective until January 1, 1987 in the case of item 38002-1) is bound under GATT.

These two items differ from all others in Reference No. 157 in that they contain no mention of "class" or "kind", but simply apply the appellation "when not made in Canada" to the named goods without any end-use restriction. This has been generally interpreted to mean that products can be admitted under these items when the required shape and size is not available from a Canadian steel mill, because Canadian suppliers have no stock and lack the available capacity at the time the goods are required.

In the absence of these items or any applicable end-use provisions, the goods would fall under item 38001-1 (alloy steel), with a M.F.N. bound rate of 7.8 p.c., or item 38001-2 (other steel) at a bound rate of 6.8 p.c.

Imports

In 1978-80, average annual imports under item 38002-1 amounted to \$8.6 million and under item 38003-1 to \$10.6 million. For 1981, respective imports were \$15.3 million and \$12.3 million.

Of the aforementioned alternative tariff provisions, item 38001-2 was introduced on June 3, 1980. For the balance of that year, imports under this item amounted to \$21.3 million, growing to \$53.3 million in 1981. Imports under alternative tariff item 38001-1 averaged \$54.9 million in 1978-80 and were \$67.3 million in 1981.

Submissions

The Algoma Steel Corporation, Limited, Sault Ste. Marie, Ont., the major domestic manufacturer of the goods under review, was the only firm to present a brief in connection with items 38002-1 and 38003-1. The initial brief of November 6, 1980, was supplemented by two further briefs, dated February 25, 1981 and February 3, 1982 respectively.

Having initially proposed that the two items in question be amended to reflect an eo nomine listing of products not made in Canada, the company has more recently adopted the position that tariff items 38002-1 and 38003-1 be deleted from the Customs Tariff. It is the company's contention that the two items have outlived their usefulness, having been introduced during the Korean War "at a time when there was no structural manufacturing capacity in Canada". In addition, and perhaps more to the point, Algoma claims that the unique appellation "when not made in Canada", as opposed to the more common "class or kind" nomenclature, permits entry, at a Free or nominal rate of duty, of shapes or sections that may vary only very slightly (e.g. in dimension) from products manufactured by Algoma having an identical use.

Also on the issue of product substitutability, Algoma notes that certain of the welded sections which it produces serve as an alternative for the heavier rolled wide-flange beams admissible under the referred provisions. However, as welded products are considered to be "further manufactured than hot- or cold-rolled", they are at present excluded from items 38002-1 and 38003-1 by the wording of the common preamble. This exclusion applies to all six tariff items which are subject to the preamble.

Conclusions and Recommendation

The Board finds merit in the arguments put forward by the Algoma Steel Corporation, Limited for the elimination of tariff items 38002-1 and 38003-1 from the Customs Tariff, thereby allowing the pertinent goods to fall under dutiable items 38001-1 and 38001-2. The Board notes that no counter-proposals (either written or verbal) have been made. Although implementation

of the aforementioned proposal would have the net result of raising the overall level of protection for the relevant product category (i.e. "shapes or sections of iron or steel, not further manufactured than hot- or cold-rolled"), the Board is of the opinion that, given the substantially higher value of imports under items 38001-1 and 38001-2, the increase would be of negligible economic significance. Elimination of the two referred items would make dutiable all goods subject to the common preamble, including the heavier rolled wide-flanged beams stated by Algoma to be competitive with its own products.

Accordingly, it is the Board's recommendation that tariff items 38002-1 and 38003-1 be struck from the Customs Tariff and not be replaced.

Tariff Item 41305-1

Existing Tariff Provisions

The present text of this item is as follows:

Machinery and apparatus, of a class or kind not made in Canada, and parts thereof, for preparing, manufacturing, testing or finishing yarns, cordage, and fabrics made from textile fibres or from paper, imported for use exclusively by manufacturers and scholastic or charitable institutions in such processes only

Free	Free	10 p.c.	Free	Free
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This is an all-embracing item for "not made" textile machinery and apparatus used by the parties named in the item for the purposes prescribed. The machinery and apparatus encompass equipment employed in the production of yarns, cordage or fabrics from textile fibres or paper, but goods used for purposes of installation, maintenance or servicing, or at stages of manufacture beyond the fabric level, are excluded. Control equipment is excluded unless mounted on the machines. Free entry under the M.F.N. Tariff is bound under GATT.

It will be noted that parts of goods classified under the item fall here regardless of their own made-in-Canada status, unless they qualify for entry under item 41310-1 as "materials for use in the manufacture of goods specified in tariff item 41305-1". The rates under this item are the same as those under item 41305-1, with the M.F.N. rate also bound at Free. The existence of item 41310-1 implies that there is some Canadian production of the "not made" goods of item 41305-1, perhaps either (a) in insufficient quantities to qualify for a "made" ruling, or (b) in the form of the repair or reconstruction of imported equipment.

Prior to January 1, 1980, textile machinery and apparatus excluded from item 41305-1 would have been classified under tariff item 42700-1, if considered to be "machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing", and thus would have been subject to the Machinery Duty Remission Program. Any other goods would have been dutiable according to their own nature or material, usually under items having a bound rate of 10.2 p.c.

As a result of the MTN, the tariff provisions for machinery, n.o.p., and related goods, were extensively revised. Those provisions which would be applicable to goods excluded from tariff item 41305-1, or which would apply in the absence of that item, are as follows:

Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:

42700-1 Other than the following

1/1/82	2.5 p.c.	12.8 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			

Except that in the case of the importation into Canada of any goods enumerated in tariff items 42700-1, 42700-2, 42700-3, 42700-4, 42700-5 and 42700-9, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

42700-6 ...

Textile industry machines, namely:
bleaching and dyeing machines,
industrial sewing machines,
knitting machines,
spinning and related machines,
weaving machines, including Jacquard machines and Dobby
looms;

...

Parts of the foregoing;

All of the foregoing to include, subject to tariff item
42700-3,⁽¹⁾ accessories, attachments, control equipment
including jacquards and tools for use therewith; parts of
the foregoing

Free	Free	35 p.c.	Free	Free
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Tariff item 41305-1, as presently worded, would take precedence over either of the foregoing items with respect to machinery for the end uses described in item 41305-1 when "of a class or kind not made in Canada". However, the classification of goods excluded from item 41305-1 because they are "made" or because they are intended for other end uses - or the classification of all goods if the item were to be deleted - would be effected according to the following order of precedence: (i) any relevant all-embracing or end-use items; (ii) tariff item 42700-6; (iii) tariff item 42700-1; and lastly, (iv) appropriate item according to the nature or material composition of the goods.

In comparing the scope of tariff items 41305-1 and 42700-6, the following points should be noted. Item 42700-6 does not clearly provide for all machinery used in "preparing ... testing or finishing yarns, cordage and fabrics". Moreover, while users of goods such as hand looms may be considered to be "manufacturers" for the purposes of item 41305-1, these goods are not considered to be "textile industry machines" for the purpose of item 42700-6. Further, not all "apparatus" of item 41305-1 would necessarily be covered by the provisions in item 42700-6 for "accessories, attachments, control equipment including jacquards and tools for use therewith". On the other hand,

(1) Tariff item 42700-3 does not appear to be relevant to textile industry machines.

while control equipment is admissible under item 41305-1 only when mounted - or for mounting - on, the machines, under item 42700-6 it is admissible regardless of where it is to be placed. Finally, item 42700-6 has no end-use restriction; the end use under item 41305-1, even if broadly administered, must still be met.

Imports

Imports under tariff item 41305-1 have been substantial, amounting to \$82.1 million in 1978, peaking at \$113.3 million in 1979 and dropping to \$91.0 million in 1980 and \$93.9 million in 1981.

Submissions

The Canadian Textiles Institute, on behalf of Canadian textile manufacturers, sought to have the item amended by dropping the "not made in Canada" provision, but, at the same time, sought to ensure continued relevance for item 42700-6 which, it suggested, might be achieved by inserting an "n.o.p." in the revised item 41305-1. It claimed that insofar as machinery and apparatus of interest to its members are concerned, most goods are not made in Canada; where Canadian production does exist, the goods are either more specifically provided for elsewhere in the Customs Tariff, or, if excluded from item 41305-1, would fall under item 42700-6 and continue to enjoy entry free of duty regardless of the made-in-Canada status.

Canadian Textile Machinery Ltd. of Granby, Que., a recently-established firm that exports most of its output, sought to retain such protection as might be available to it under the existing tariff structure, recognizing that many of its products, if ruled made and excluded from tariff item 41305-1, would fall under duty-free item 42700-6. This would not apply, however, in the case of certain products used in finishing operations.

Conclusions and Recommendations

In devising an appropriate replacement for tariff item 41305-1, the Board has had to bear in mind the impact of any possible recommendations on tariff item 42700-6, as well as the interests of textile manufacturers and Canadian Textile Machinery Ltd. It has, therefore, sought to establish a list of goods produced in Canada which do not clearly fall within the ambit of item 42700-6.

Until recently, a number of items of textile equipment were ruled by Revenue Canada to be "of a class or kind made in Canada".⁽¹⁾ However, no manufacturers came before the Board in support of these rulings. In the most recent listing, hand looms are the only goods not covered by tariff item 42700-6, to be shown as "made".⁽²⁾

The following products, available from Canadian Textile Machinery Ltd., also appear to fall outside the ambit of item 42700-6: inspection tables with fractionation, winding, measuring and folding machines, automatic decatizing machines, squeezing padds and finishing padds. The Board notes that all of these goods are machines or apparatus used in connection with the preparation or finishing of woven fabrics. If ruled to be "of a class or kind not made in Canada", they would be eligible for entry under tariff item 41305-1, but if ruled to be "made", they would fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Similar treatment would be afforded to hand looms.

Consequently, the Board recommends the replacement of tariff item 41305-1, with two items, sharing a common preamble, as follows:

(1) Customs Memorandum D51-5, January, 15, 1980, summarized in Staff Appraisal. Special Purpose Plant Machinery and Miscellaneous Goods I, pp. 31-2.

(2) Customs Memorandum D11-1-1, July 1, 1982, Appendix C, p.9. Loopers are also listed as "made", but these goods fall under item 42700-6.

Machinery and apparatus for preparing, manufacturing, testing or finishing yarns, cordage, and fabrics made from textile fibres or from paper, other than goods enumerated in tariff item 42700-6, imported for use exclusively by manufacturers and scholastic or charitable institutions in such processes only; parts of the foregoing:

41305-1 Other than the following

Free	Free	10 p.c.	Free	Free
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41305-2 Hand looms;

The following, when for preparing or finishing fabrics:

Decatising machines, automatic;

Finishing padds;

Inspection tables with fractionation;

Squeezing padds;

Winding, measuring and folding machines;

Parts of all the foregoing

2.5 p.c.	9.2 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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Tariff Item 41700-1

Existing Tariff Provisions

Machinery and apparatus and complete parts thereof and structural iron and steel, of a class or kind not made in Canada, when imported for use exclusively in the construction or equipment of factories for the manufacture of sugar from beetroot, or for receiving sugar beets, under regulations prescribed by the Minister

Free	Free	Free	Free	Free
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It will be noted that all goods falling under the item - machinery and apparatus, and complete parts thereof, and structural iron and steel - must themselves be of a class or kind not made in Canada. Thus, the parts stand on their own feet insofar as made-in-Canada status is concerned. Free entry under the M.F.N. Tariff is bound under GATT.

Although narrowly circumscribed in terms of possible usage, the item is considered to be all-embracing and to apply to all "not made" articles (other than office furniture and equipment), and complete parts thereof, used

in the construction or equipment of beet sugar factories. No regulations have been prescribed by the Minister. However, until such time as a new plant is built, imports will necessarily be limited to replacement goods and repair parts. Complete parts are held to be only such parts as require no further processing (e.g. machining) after importation.

There is no equivalent tariff provision for goods of a class or kind made in Canada. In the absence of the item, no distinction would be drawn between "made" and "not made" goods. Machines and complete parts thereof would be subject to the Machinery Duty Remission Program under tariff item 42700-1. Structural iron and steel would fall under the appropriate items in the iron and steel schedule; in almost all cases, only such iron or steel as would be required for the construction of a new sugar mill or refinery would qualify for entry under item 41700-1. Apparatus (and complete parts thereof) not qualifying as accessories or attachments for machines would be dutiable according to the material or nature of the goods.

Imports

Since at least 1966, except for two years, annual imports under tariff item 41700-1 have been valued at well under \$1 million. The exceptions were 1976 and 1981, when yields of sugar beet were exceptionally high⁽¹⁾ and imports of processing plant equipment reached \$1.3 million and \$2.1 million respectively.

Submissions

No proposals respecting this item were received by the Board, either from producers of sugar from beets or from domestic manufacturers, if any, of machinery and apparatus etc., used in the production of such sugar.

(1) Statistics Canada, Field Crop Reporting Series, No. 8, Nov. 1981 (cat. no. 22-002).

Conclusions and Recommendation

The preferential end use promoted by tariff item 41700-1 dates back to the turn of the century,⁽¹⁾ when there was apparently a shortage of sugar-refining capacity in Canada. This situation no longer applies.⁽²⁾ Although equipment used in older operating plants may need to be updated or replaced from time to time, item 41700-1 would appear, essentially, to have outlived its usefulness. This conclusion would seem to be underlined by the total lack of interest indicated in the item.

Accordingly, it is the Board's recommendation that tariff item 41700-1 be struck from the Customs Tariff and not be replaced.

Tariff Item 42000-1

Existing Tariff Provisions

Machines and parts thereof, of a class or kind not made in Canada, for use exclusively in the tanning or embossing of leather

Free	Free	10 p.c.	Free	Free
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Free entry under the M.F.N. Tariff is bound under GATT. It should be noted that machines capable of performing additional functions other than tanning or embossing are seemingly excluded from the nomenclature of the item. To be entered under the item, parts must themselves be of a class or kind not made in Canada. Consequently, "made" parts of "not made" machines would be excluded from the item and classified elsewhere in the Customs Tariff.

As there is no equivalent item for "made" goods, these would generally fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Certain parts would be dutiable elsewhere in the Customs

(1) See supra, p. 12.

(2) For the historical development of the sugar-refining industry in Canada, see Tariff Board, Reference No. 146. Sugar (1971), passim.

Tariff if held to be more specifically described elsewhere than as parts of machines. The same considerations would also apply to "not made" goods in the absence of the item.

Imports

Imports under this tariff item were valued at somewhat less than \$2.2 million in 1978, peaked at nearly \$3.0 million in 1979, and fell to just below \$2.9 million in 1980 and less than \$2.6 million in 1981.

Submissions

The Tanners' Association of Canada, supported by one of its members, A.R. Clarke & Co. Limited of Toronto, Ont., sought to broaden the coverage of the item by: (a) deleting the words "of a class or kind not made in Canada"; (b) replacing the word "machines" with the words "machinery and apparatus"; and (c) substituting for the words "tanning or embossing", the words "tanning, drying or finishing". With these changes tariff item 42000-1 would then read:

Machinery and apparatus, and parts thereof, for use exclusively in the tanning, drying or finishing of leather.

This broadened product coverage, it was claimed, would bring the nomenclature of the item into line with current customs administration.

In a detailed listing of leather-working machinery and apparatus compiled by the Association, only a few types of machinery and apparatus were specified as being made in Canada.⁽¹⁾ With respect to parts, the Association's brief noted that tanning machinery and apparatus are almost always highly specialized and, as such, require specially tooled or patented parts. Thus, it was argued that "injury or market loss to domestic parts producers [as a result of duty-free entry] is highly improbable".

At the hearing on the staff appraisal, a spokesman for The Canadian Manufacturers' Association (CMA) pointed out that there would be advantages to the tanners in having item 42000-1 dropped and the pertinent goods brought

(1) Staff Appraisal, pp. 40-1.

within the ambit of the 42700 series of items, subject to the Machinery Duty Remission Program. He pointed, in particular, to control equipment, which is admissible under item 42000-1 only if it is mounted on a machine, but comes under item 42700-1 regardless of whether or not it is so mounted.

In a letter to the Board, Canbar Products Limited, Waterloo, Ont., indicated that it manufactures hide mixing machinery, tanning drums and vessels, and re-tan drums and vessels. Such products do not at present qualify for duty-free entry under item 42000-1. Canbar proposed that the protection which it now enjoys should be maintained.

Conclusions and Recommendations

On the basis of the evidence reviewed, the Board concludes that there is very little Canadian production of the goods at issue, or, indeed, of any capital goods for use specifically in the processes of leather manufacture.

With respect to the tariff treatment of control equipment, the Board recognizes that an anomaly exists, although (as noted by the CMA spokesman) other items besides that under review are affected. The Board does not presently possess information regarding the extent of Canadian production of the pertinent control equipment or of the importation of such equipment for use on machinery classifiable to tariff item 42000-1, and without further study of the possible implications, it would be reluctant to propose that the goods at issue should be made subject to "availability" provisions.

The Board recognizes that, in some instances, there may be difficulties in differentiating between "machinery" and "apparatus"; and, indeed, in many tariff items the two terms are featured conjointly. Hence - and more especially in view of the way in which tariff item 42000-1 has apparently been administered in the past - the Board feels that the product coverage of the item could be broadened to facilitate the duty-free entry of apparatus, provided that Canadian production interests are not prejudiced thereby. Similarly, a somewhat wider range of production processes might be entertained under the end-use provision. These considerations could be given effect

through the establishment of an eo nomine listing of "made" goods, dutiable at the rates applicable under the machinery schedule to goods available in Canada, with a residual provision for other goods and certain of their parts.

Accordingly, the Board recommends that tariff item 42000-1 be replaced by the following enumeration of goods and rates of duty:

Machinery and apparatus for use exclusively in the tanning, drying, finishing, plating, measuring or grading of leather; parts of the foregoing, not to include motors, pumps or bearings:

42000-1 Other than the following

Free	Free	10 p.c.	Free	Free
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42000-2 Hide mixing machinery and apparatus;

Soak drums and tanks;

Tanning and re-tanning drums, vessels and apparatus;

Dry milling machinery and apparatus;

Spraying machinery and apparatus;

Spray control and exhaust equipment and apparatus;

Parts of all the foregoing

2.5 p.c.	9.2 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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Tariff Item 42100-1

Existing Tariff Provisions

Machinery and complete parts thereof, of a class or kind not made in Canada, viz.: blungers, vibrating sifters or lawns, pugging machines, slip pumps, wet or dry pans, clay disintegrators, ball mills, clay wheels, pull-downs, batting-out machines, when imported by manufacturers of clay products for use exclusively in the manufacture of clay products, in their own factories, under regulations prescribed by the Minister

1/1/82	Free	6.8 p.c.	10 p.c.	Free	5.5 p.c.
1/1/87		5.5 p.c.			

This item is limited to certain named machines, when of a class or kind not made in Canada, used in the manufacture of clay products, and also covers complete parts of the machines when the parts themselves are "not

made". Incomplete parts and "made" parts of "not made" machines would be dutiable according to their own material or nature, usually at a bound rate of 10.2 p.c. The M.F.N. rate applying to the item was bound in the Tokyo Round at 5.5 p.c.

Machines of a class or kind made in Canada, and their parts, would fall under item 42700-1, with a bound rate of 9.2 p.c. In the absence of item 42100-1, the aforementioned item would also apply to "not made" goods, and duty remission would be provided for those held to be "not available" in Canada, as well as for all their parts.

Imports

Imports under item 42100-1 in recent years have been comparatively small, averaging \$351,000 per annum in 1978-80, and totalling \$302,000 in 1981.

Submissions

No representations have been made to the Board concerning item 42100-1.

Conclusions and Recommendation

Partly reflecting the lack of demonstrated interest in this tariff item and the comparatively low value of imports entering thereunder, the information available to the Board regarding the made-in-Canada status of the pertinent goods has been generally insubstantial and inconclusive. However, the Board understands that, of the goods named in the nomenclature of the item, slip pumps and vibrating sifters or lawns for the manufacture of clay products are made in Canada. It also assumes that the potters' wheels, reported to be available from domestic sources, are synonymous with the "clay wheels" named in the item. The main conclusion, however, would appear to be that the majority of products encompassed by tariff item 42100-1 are not at present made in Canada.⁽¹⁾

(1) Ibid., p. 44.

Accordingly, the Board is of the opinion that an alternative tariff solution should be developed within the framework of the existing nomenclature, by striking out the clause "of a class or kind not made in Canada" and by deleting from the list of named goods those indicated above as being available from domestic production.

The following modified wording is proposed:

42100-1 Machinery and complete parts thereof, when imported by manufacturers of clay products for use exclusively in the manufacture of clay products, in their own factories, under regulations prescribed by the Minister - viz: blungers, pugging machines, wet or dry pans, clay disintegrators, ball mills, pull-downs, batting-out machines

Free	5.5 p.c.	10 p.c.	Free	5.5 p.c.
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Tariff Item 42600-1

Existing Tariff Provisions

Ozone generators or ozone airifiers and parts thereof, of a class or kind not made in Canada

Free	5 p.c.	10 p.c.	Free	5 p.c.
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The item is not specifically bound under GATT.

It should be noted that in this item, unlike many others in the reference, the classification of parts depends on their own made-in-Canada status and not on that of the goods of which they form part.

In the absence of the item, or if ruled to be of a class or kind made in Canada, the relevant goods, and complete parts thereof, would become dutiable as electrical apparatus under item 44524-1 at a bound M.F.N. rate (in 1987) of 10.2 p.c. Even if ozone generators and ozone airifiers were to be categorized as "made-in-Canada" goods, "not made" parts could continue to enter under item 42600-1, assuming its retention.

Imports

The recorded value of imports entering under item 42600-1 averaged only \$393,000 per annum in 1979-81, compared to \$1.8 million in 1975. Part, at least, of this reduced utilization would seem to be associated with a recent policy decision on the part of the customs administration to regard ozone generators with a capacity in excess of 25 pounds per day as falling into a class or kind of goods made in Canada and thus no longer eligible to qualify for entry under the relevant tariff provision.

Submissions

Only one firm, Union Carbide Canada Limited, Toronto, Ont., commented on this item. Union Carbide, a domestic manufacturer of ozone generators with a capacity in excess of 25 pounds per day, expressed satisfaction with the present exclusion of the aforementioned generators from entry under tariff item 42600-1.

Conclusions and Recommendation

Ozone generators with a capacity in excess of 25 pounds per day are now admissible under item 44524-1 as electrical apparatus. Thus, as presently administered, item 42600-1 has limited application, being confined to small generators, ozone airifiers and "not made" parts. However, if the item were to be deleted, all ozone generators and airifiers, and complete parts thereof, would be subject, under item 44524-1, to a M.F.N. duty of 10.2 p.c. by January 1, 1987. Incomplete parts would also generally be liable to rates of duty of 10.2 p.c. under other tariff provisions.

An appropriate tariff solution would be a simple rewording of item 42600-1 to reflect current administrative practice.

Accordingly, the Board proposes that the item be modified to read as follows:

42600-1 Ozone generators or ozone airifiers having a capacity of less than 25 pounds per day; parts thereof

Free	5 p.c.	10 p.c.	Free	5 p.c.
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Tariff Item 44125-1

Existing Tariff Provisions

The present wording of this item is as follows:

Guns and rifles of a class or kind not made in Canada;
parts thereof

1/1/82	Free	6.8 p.c.	30 p.c.	Free	5.5 p.c.
1/1/87		5.5 p.c.			

The M.F.N. rate of 5.5 p.c., effective January 1, 1987, was bound in the MTN. It will be noted that the made-in-Canada status of parts is dependent upon that of the main goods.

This tariff provision can best be understood in the context of the item applicable to "made" goods, namely 44100-1, which, until amended in the October 28, 1980 Budget, read as follows:

Guns, rifles, including air guns and air rifles not being toys; muskets, cannons, pistols, revolvers, or other firearms, n.o.p.; cartridge cases, cartridges, primers, percussion caps, wads or other ammunition, n.o.p.; bayonets, swords, fencing foils and masks; gun or pistol covers or cases, game bags, loading tools and cartridge belts of any material

1/1/82	10 p.c.	16.7 p.c.	30 p.c.	Free ^(a)	11.3 p.c.
1/1/87		11.3 p.c.			

(a) Introduced in the Budget of November 12, 1981; previously the G.P.T. rate was 10 p.c.

In its report on Reference No. 156. Antiques, Collectibles and Hobby Equipment (1979), the Board recommended that item 44125-1 be amended to provide for "guns, rifles and muskets,⁽¹⁾ of a class or kind not made in Canada; parts thereof". However, as a result of the 1980 Budget, the provision for "muskets", although deleted from item 44100-1, has now been provided for under a new item, numbered 44101-1 - viz:

Muskets and parts thereof

1/1/82	Free	5.5 p.c.	30 p.c.	Free	5.5 p.c.
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The rates under this item are those that will apply under item 44125-1 in 1987.

As administered at the date of reference, the coverage of item 44100-1 was much broader than that of item 44125-1. Because pistols, revolvers and other firearms are named in 44100-1 and not in the "not made" item, they were considered, even with a n.o.p. provision, to be excluded from item 44125-1, even when of a class or kind not made in Canada. However, in its decision, dated February 16, 1981, on Appeal No. 1432 (Donald J. Norris v. The Deputy Minister of National Revenue for Customs and Excise), the Tariff Board declared that a pistol of a class or kind not made in Canada is admissible under item 44125-1. The decision has been appealed to the Federal Court of Canada. Pending the result of the appeal, the Department has continued to limit the coverage of item 44125-1 to long guns, basically shotguns and rifles. At the time of writing, the Federal Court has not yet scheduled a hearing of this case.

Imports

The average annual value of imports under item 44125-1 in 1978-80 was \$28.7 million. In 1981, imports were valued at \$30.9 million.

(1) Our underlining.

Submissions

Lakefield Arms Ltd. of Lakefield, Ont., which claims to be "the only gun manufacturer in Canada", presented a submission requesting that the "made-in-Canada" classification presently attaching to bolt action and auto-loading rifles should continue to apply.

Conclusions and Recommendation

On the basis of the information available to it, the Board concludes that rimfire .22 calibre rifles, including single-shot bolt action, bolt action repeater and auto-load (semi-automatic) models, are made in Canada; target rifles of .22 calibre, however, are not so made.⁽¹⁾ It is also understood by the Board that shot guns of 12 and 20 gauge and 410 bore are assembled by Lakefield Arms Ltd. using imported metal components, the wood stocks and forearms being manufactured in Canada. The Board notes that Lakefield has not requested a "made-in-Canada" designation for these goods; rather, it seems, the company would prefer to avail itself of a preferential duty provision for imported parts, as presently provided for in tariff item 44125-1.

With the needs of Lakefield Arms Ltd. in mind, the Board is, therefore, inclined towards a tariff arrangement which, while making everyday .22 calibre rifles dutiable, would allow shot-gun parts in at preferential rates. Thus:

44125-1 (Pistols), shot-guns and rifles, including .22 calibre target rifles but not including all other .22 calibre rimfire rifles; parts of the foregoing

Free	5.5 p.c.	30 p.c.	Free	5.5 p.c.
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(1) Ibid., pp. 49-50.

The above wording reflects the present uncertainty with respect to the proper classification of pistols. Whether or not these goods should be named in a revised nomenclature is seen by the Board as depending upon whether or not they are ruled by the Federal Court to be admissible under existing tariff item 44125-1.

Tariff Items 47825-1 and 47826-1

Existing Tariff Provisions

Prior to the Budget of November 12, 1981, the text of these two items, which share a common preamble, was as follows:

Invalid chairs, commode chairs, walkers and all other aids to locomotion, with or without wheels; motive power and wheel assemblies therefor; patterning devices; toilet, bath and shower seats; all specially designed for the disabled; accessories and attachments for all the foregoing:

47825-1	Of a class or kind made in Canada; parts thereof				
1/1/82	Free	10 p.c.	15 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.			
47826-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the Budget of 1981, the following clause was added to the preamble to the items, between the words "assemblies therefor" and "patterning devices":

selector control devices designed to enable disabled persons to select, energize or control various household, industrial and office equipment but not including the equipment controlled by these devices;

These two items cover a range of goods for the use of the disabled, with a distinction being drawn on the basis of the made-in-Canada status of the finished products. Parts of "made" goods are classified under the "made" item even if they themselves are "not made". Similarly, parts of "not made"

goods are always classified under the "not made" item. Under the "not made" item, a M.F.N. rate of Free was bound under the MTN. Under the "made" item, the M.F.N. rate, now 10 p.c., has been bound at 9.2 p.c.

In the absence of these two items, those products which could be considered as machinery would at present fall under machinery items with a bound rate of 9.2 p.c., but be subject to the Machinery Duty Remission Program for "not available" goods. Other products would fall under a range of items with bound rates of between 9.2 p.c. and 15 p.c., with no special provision for "not made" or "not available" goods.

Note must also be taken of tariff item 47800-1, introduced into the Customs Tariff by the Notice of Ways and Means Motion tabled in Parliament on November 12, 1981. The item provides for:

Goods, specially designed for the use of disabled persons,
designated by Order of the Governor in Council; parts of
the foregoing

Free	Free	Free	Free	Free
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The Governor in Council may make regulations prescribing
terms and conditions on which goods may be imported under
this tariff item.

Item 47800-1 is inoperative at the time of writing and will remain so until goods are designated by Order in Council, which will not be possible until the Ways and Means Motion has been voted into law. It is understood, however, that the item will be administered on a case-by-case basis and that no goods will be designated which are specifically provided for in other tariff items relating to goods for the disabled or which are available from Canadian production.

The possible existence of Canadian production of some of the goods now admissible under the "not made" provisions of item 47826-1 is recognized in tariff item 47900-1, which provides for free entry under all Tariffs for, inter alia:

Materials and articles for use exclusively in the manu-
facture of the goods enumerated in tariff items ...
47826-1 ...

Item 47825-1 is not included in the list of tariff items to which this item relates.

Imports

Imports under both of these provisions have increased steadily in recent years, with the value of goods entering under the "made" item exceeding that under the "not made" item. The figures are as follows:

<u>Item</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
	- \$ '000 -			
47825-1	2,710	3,370	3,987	4,479
47826-1	1,209	1,855	2,095	3,124

Submissions

When these items were originally scheduled for hearing, no submissions were received. However, in connection with the hearing on the staff appraisal, representations were received from two domestic manufacturers and one distributor of relevant goods, as follows:

Robertson Custom Aids Ltd. of Scarborough, Ont., advised that it produces vertical lift elevators of various types - viz: long lift elevators, designed to travel one to three floors, which may be customized to most homes and to suit special needs; a short lift elevator, free standing or wall mounted, to replace ramps; and controlled access lifts for public buildings, to a height of twenty-two feet. The firm's product line was also said to include air hydraulic slings to lift persons unable to transfer from chair to bed, bathtub, etc. At the time it made its submission, the company was seeking a "made" ruling on its elevators, even though it realized that this would make dutiable certain parts, such as hardened screws and gear reducers, which are not available in Canada.

Everest & Jennings Canadian Limited of Concord, Ont., advised that it was a producer of both manually-controlled and powered wheel chairs, and that it was seeking a "made in Canada" designation for the latter goods. In

advocating retention of the flexibility of the existing tariff arrangement, the company cited the rapidity of technological development in the relevant product area and the difficulties of obtaining protection when a change in eo nomine listings is required.

TASH (Technical Aids & Systems for the Handicapped) Inc., Toronto, Ont., a distributor of a wide range of Canadian-made products used by the disabled, not all of which are classifiable under these two items, proposed first, that the rate of duty under tariff item 47825-1 should be increased from 10 p.c. to 15 p.c., effective immediately for the next three years, and then gradually be reduced to zero by 1992-93; and secondly, that the duty-free entry provided under tariff item 47826-1 for equipment not available from Canadian production, should be continued.

In addition to the aforementioned submissions, the Board received other information suggesting or confirming that there is Canadian production of some bathroom accessories, stairway-type elevators, commodes, walkers, selector control devices and patterning devices.⁽¹⁾

Conclusions and Recommendation

In light of the foregoing, and after consideration of the relevant detailed import statistics, the Board has reviewed the provisional made-in-Canada status of the commodity classes and goods listed in the staff appraisal, and would now list all of these, except c.c. 503-69-82 ("gearmotors, electrical"), as "made".⁽²⁾ It also would add to the "not made" list c.c. 503-69-41 ("motors, electric, D.C. over 1/3 hp to 1 hp inclusive") and c.c. 504-99-61 ("gearmotors, non-electric type, power transmission").

The Board appreciates that many of the commodity classes or types of goods designated as "made in Canada" are broad enough to cover several "classes or kinds" of goods, some of which are quite probably not available

(1) See Appendix IV, infra, pp. 324-38 for a listing of Canadian producers.

(2) Ibid., p. 53.

from Canadian production. While the Board is reluctant to impose any additional burden on the disabled, it also is hesitant about depriving Canadian manufacturers of the protection to which they are currently entitled. It also notes that production costs would be reduced if domestic producers had duty-free access to parts not obtainable in Canada.

It is felt that these conflicting interests can best be served by the adoption, with respect to both goods and parts, of the "availability" approach. Consequently, the Board recommends the replacement of items 47825-1 and 47826-1 with the following:

47825-1 Invalid chairs, commode chairs, walkers and all other aids to locomotion, with or without wheels; motive power and wheel assemblies therefor; selector control devices designed to enable disabled persons to select, energize or control various household, industrial and office equipment, but not including the equipment controlled by these devices; patterning devices; toilet, bath and shower seats; all specially designed for the disabled; accessories and attachments for all the foregoing; parts of all the foregoing

Free	9.2 p.c.	15 p.c.	Free	9.2 p.c.
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Except that in the case of the importation into Canada of any goods enumerated in this item, or parts thereof, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods or parts are not available from production in Canada, remit the duty specified in this item applicable to the goods or parts, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

CHAPTER 7. ENGINES AND PARTS

Introduction

Seven of the items referred to the Board (including two items referred in part only) have been grouped under the above heading. The goods eligible for entry under these provisions are not mutually exclusive. Diesel engines are featured in four of the items, while semi-diesel engines (which use gasoline for ignition and operate on diesel fuel) are mentioned in two. Internal combustion engines, or parts thereof, are named in three of the items, parts of gas and steam turbines are listed under a further provision, while diesel dual fuel engines, L.P.G. engines, reciprocating natural gas engines and rotary gas engines are also provided for. A prime reason for this replication lies in the fact that all seven items are end-use oriented. Moreover, the same goods may also qualify for admission under other end-use provisions when imported for certain other specified end uses. The industrial applications variously named in the tariff items under review comprise the following: the manufacture of the following goods - portable crushing plants, portable screening plants or a combination thereof, portable air compressors and transit concrete mixers, plate type vibratory compactors, and electricity generating sets; the remanufacture of electric starter motors, generators or alternators; the repair or remanufacture of gas or steam turbines; and use in the construction or equipment of ships or vessels. Five of the aforementioned tariff provisions are temporary items due to expire on July 30, 1983, unless extended. Otherwise, the classification of the relevant goods will revert to that of the parent tariff item. All of the pertinent provisions apply to goods "of a class or kind not made in Canada" or "of types or sizes not made in Canada".

In all, 15 parties made submissions with respect to the seven tariff items comprising this study group. Several of the submissions pertained to diesel engines generally, thus encompassing all four of the relevant items naming these goods. The remaining submissions comprised two briefs pertaining to internal combustion engines, four relating to parts of such engines, and five addressing the issue of parts of gas and steam turbines.

Imports under this group of tariff items in recent years have been substantial, amounting to almost \$143 million in 1981.⁽¹⁾ Of this amount, almost two-thirds was attributable to goods entering under item 44025-1 ("diesel and semi-diesel engines ... for use exclusively in the construction or equipment of ships or vessels"). Negligible import values have characterized three of the items. For the group as a whole, imports have grown steadily since 1977, at an average rate of almost 20 per cent per annum.

Tariff Items 42865-1, 42880-1 Ex., 42885-1 and 44025-1

Existing Tariff Provisions

These four tariff items all pertain, at least in part, to diesel engines.

I. Item 42865-1

Item 42865-1 has the broadest product coverage of the four items. It is worded:

Diesel and semi-diesel engines;
Diesel dual fuel engines;
L.P.G. engines;
Gasoline internal combustion engines;
Reciprocating natural gas engines;
Rotary natural gas engines having a brake horsepower of up to 3,000;
When of a class or kind not made in Canada; parts thereof; all of the foregoing for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1⁽²⁾

Free	Free	30 p.c.	Free	Free
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This is a temporary tariff item, first introduced in 1968 and now scheduled to expire on June 30, 1983. While the actual list of goods covered by the item has been altered from time to time, it has always been applicable

(1) See Appendix III, infra, pp. 319-20.

(2) For the nomenclature of this item, see Appendix II, infra, p. 290.

to "not made" engines, and parts thereof, for use in the manufacture of electricity generating sets. As parts of "not made" engines are classified here regardless of their own made-in-Canada status, the made-in-Canada status of the parts is not a pertinent issue. The item is not bound under GATT.

In the absence of classification under this or other end-use items, or when held to be of class or kind made in Canada, the diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which has a bound M.F.N. rate of 9.2 p.c. Under similar circumstances, all the other engines covered by the item would fall under item 42805-2, with a bound rate of 9.2 p.c.

II. Item 42880-1

Tariff item 42880-1 encompasses a narrower range of goods - viz:

Diesel engines, of a class or kind not made in Canada;
Gasoline internal combustion engines, air-cooled, four
cycle, not greater than nine horsepower;
For use in the manufacture of plate type vibratory
compactors

Free	Free	30 p.c.	Free	Free
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Only the goods covered by the first part of the item (i.e. diesel engines) are before the Board in this reference. The item is not bound under GATT.

This is a temporary tariff item, created under the authority of section 273 of the Customs Act, to provide free entry (except under the General Tariff) for the goods named therein, when imported for the purpose stated in the item. It should be noted that the item makes no provision for parts, which would be classified according to their own nature or material, usually under one of the items providing generally for diesel engines. The item was first introduced in January 1973 and currently is scheduled to expire on June 30, 1983.

In the absence of classification under this or other end-use items, or when held to be of a class or kind made in Canada, the diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which has a bound M.F.N. rate of 9.2 p.c. The same also applies to items 42885-1 and 44025-1, reviewed below.

III. Item 42885-1

Tariff item 42885-1 applies only to diesel engines. It reads:

Diesel engines, of a class or kind not made in Canada, for use in the manufacture of portable crushing plants, portable screening plants or combination thereof

Free	Free	30 p.c.	Free	Free
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This is a temporary tariff item, created under the authority of section 273 of the Customs Act, to provide free entry (except under the General Tariff) for the goods named therein, when imported for the purposes stated in the item. It should be noted that the item makes no provision for parts, which would be classified according to their own nature or material, usually under one of the items providing generally for diesel engines. The item was first introduced in January 1973 and currently is scheduled to expire on June 30, 1983. It is not bound under GATT.

IV. Item 44025-1

In addition to diesel engines, semi-diesel engines are provided for in tariff item 44025-1. Thus:

Diesel and semi-diesel engines, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in the construction or equipment of ships or vessels

Free	Free	Free	Free	Free
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This item provides for the named goods, and complete parts thereof, when imported for the purposes stated in the item. It should be noted that the classification of "complete parts" of the engines covered by this item is controlled by the made-in-Canada status of the engines themselves. Parts not considered to be "complete", i.e. those requiring some further processing, would be dutiable according to their own nature, usually as parts under one of the items providing generally for diesel engines. Free entry under the M.F.N. Tariff is bound under GATT.

Imports

The following figures indicate the value of imports under the aforementioned tariff items during the four most recent years for which data are available.

<u>Item</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -				
42865-1	17,969	24,124	26,727	30,624
42880-1	14	16	16	-
42885-1	1	30	90	22
44025-1	60,924	69,493	88,596	92,034

As can be seen, import values attributable to tariff items 44025-1 and 42865-1 have been considerable, with substantial growth occurring over the period represented. There was, however, a slackening in the rate of growth in the latter part of the period, doubtless reflecting the falling off in the general level of economic activity. Imports under items 42885-1 and 42880-1 (including both the referred and non-referred provisions) have been small.

Of the \$122.7 million of goods entering under the four aforementioned tariff items in 1981, \$112.4 million, or somewhat more than 90 per cent, were admitted as diesel or semi-diesel engines or parts thereof. The largest single category of goods comprised parts of diesel engines for marine usage (as specified in tariff item 44025-1), which accounted for \$52.4 million, or almost 43 per cent of all imports under the four items. Marine diesel engines (not including parts thereof) accounted for a further \$30.8 million, while

other diesel and semi-diesel engines (again, excluding parts) were responsible for \$26.4 million. Gasoline engines and parts, recorded as such, accounted for only \$1.8 million of all imports under the items. Imports of diesel dual fuel engines, L.P.G. engines, reciprocating natural gas engines and rotary natural gas engines (named in the nomenclature of tariff item 42865-1) are not separately identifiable in the available data.

A. Diesel and Semi-diesel Engines, Diesel Dual Fuel Engines

Submissions

The Board received submissions from one Canadian diesel engine manufacturer and seven importing/using organizations with respect to the above-mentioned goods.

In its submission, Bombardier Inc. of Montreal, Que., indicated that it manufactures diesel engines of from 700 to 4,500 continuous rated brake horsepower (bhp), with a piston displacement of 668 cubic inches, capable of producing 2,850 kilowatts at 900 revolutions per minute (rpm). These engines may be variously applied in the electrical, industrial, marine and railway transportation spheres. In accordance with existing administrative practice⁽¹⁾, Bombardier Inc. conceded that duty-free entry might be provided for diesel and semi-diesel engines having a continuous rated bhp of less than 500 and greater than 5,000, and having a piston displacement of below 500 cubic inches per cylinder. With those exceptions, however, the company proposed that all diesel and semi-diesel engines, diesel dual fuel engines and parts of the aforesaid goods should be made subject to a M.F.N. duty of 9.2 p.c., with provision for remission based on non-availability in Canada.

The tariff nomenclature for putting such a proposal into effect would read as follows:

(1) As per Customs Memorandum D51-15-1, July 17, 1978, reproduced in Staff Appraisal. Engines and Parts, pp. 22-3.

Diesel and semi-diesel engines, diesel dual fuel engines, and parts thereof:

(a) Other than the following 9.2 p.c. M.F.N.

Except that in the case of the importation into Canada of any of the dutiable goods under this item the Governor in Council on the recommendation of the Ministry of Industry, Trade and Commerce may on application by a manufacturer, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified.

(b) Diesel and semi-diesel engines having a continuous rated brake horsepower of less than 500 and greater than 5,000 and having a piston displacement of below 500 cubic inches per cylinder Free M.F.N.

It should be noted that this proposal of Bombardier's was directed not only at the four tariff items presently under review, but at all the various provisions in the Customs Tariff under which diesel engines may now gain entry.⁽¹⁾

The submissions of importers/users revealed a considerable degree of dissatisfaction with the existing complex structure of tariff provisions pertaining to diesel engines and with the administrative treatment of the pertinent items. On the latter score, the principal request was for a reduction of the range within which the relevant engines are categorized as being of a class or kind made in Canada, so as to conform more closely with actuality and in order to facilitate the free entry of certain goods now subject to duty.

General Motors of Canada Limited, Diesel Division, London, Ont., which acts as the Canadian distributor of diesel engines manufactured by General Motors Corporation, noted that diesel engines with a piston displacement of less than 500 cubic inches per cylinder are not produced in Canada, and proposed that the duty-free and/or preferential tariff treatment

(1) In 1981, diesel engines were apparently admitted under 48 "legitimate" tariff items, including 14 items encompassed by the present reference under which the engines seemingly qualified as "internal combustion engines", "machinery", "apparatus", "parts" or "materials".

presently accorded to such goods under various end-use provisions (including those now under review) should be expanded in a new "blanket" duty-free tariff item designed to encompass all diesel engines with a piston displacement of 500 cubic inches per cylinder or less, and complete parts thereof. In the event of this proposal not proving acceptable to the Board, the company indicated its preference for an arrangement whereby the pertinent goods would be provided with duty-free access when for use in Canadian manufactures, while other goods would be dutiable, at a M.F.N. rate of 9.2 p.c., but subject to duty remission when not available from domestic production; as a further possibility, the company envisaged a duty being applied to all goods, with provision for remission when the goods were not available from Canadian sources.

With respect to diesel engines of over 500 cubic inch displacement per cylinder, the company conceded that these "are manufactured in Canada for most end uses". However, "individual end-use considerations" need to be applied "to ensure Canadians, both consumers and manufacturers, are afforded a fair tariff treatment". With these considerations in mind, General Motors of Canada Limited, Diesel Division, submitted the following tariff recommendation with respect to goods presently falling under tariff item 42865-1:

Diesel, semi-diesel and diesel/gaseous dual fuel engines, parts thereof, for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1:

(a) producing 3,500 continuous brake horsepower and over at a synchronous speed of 600, 720, 900 or 1,200 RPM together with a piston displacement of 500 cubic inches per cylinder and over; (b) capable of operating on blended (heavy) diesel fuel oil; (c) under 500 cubic inches displacement per cylinder Free M.F.N.

(d) other than (a), (b), and (c) above 9.2 p.c. M.F.N.

It will be noted that the above recommendation deals strictly with diesel and semi-diesel engines and diesel dual fuel engines; however, the company would have "no objection to inclusion of any or all other types of engines, currently named under tariff item 42865-1, in a revised version of this item".

Referring more specifically to the different elements of this proposal, the company's written submission indicates that the specifications contained in provision (a) are related to the generation of electricity at the Canadian standard frequency of 60 cycles per second (cps). The submission notes that "in terms of continuous base load power output capabilities there is a very significant difference between the rated 2,100 kw available from the largest Canadian made diesel engine [believed by the company to be a 16 cylinder unit capable of producing 2,915 continuous brake horsepower at 900 rpm] and an imported 20 cylinder diesel engine". The proposal would allow the latter to enter duty free, while providing protection, under clause (d), to the former. With respect to clause (b), the company's brief notes: "There is evidence that duty free entry is permitted under 42865-1 and/or 44025-1 because engines are capable of burning two different grades of diesel fuel regardless of the fact that they are within the published made in Canada specifications of D51-15."⁽¹⁾ Thus, the company's proposal would give this administrative practice legislative sanction. As a matter of definition, it was represented that "diesel dual fuel engines can only be considered 'dual fuel' when they are capable of burning a gaseous fuel as the alternate to diesel fuel".

Most of the main elements of this proposal (including the naming of diesel/gaseous dual fuel engines) were repeated by the company in its recommendation concerning tariff item 44025-1 pertaining to diesel and semi-diesel engines for use in the construction or equipment of ships or vessels. In this regard, the only significant difference was the specification of a continuous brake horsepower of less than 1,000 bhp (as well as more than 3,500 bhp) as an alternative qualification for duty-free entry.

General Motors of Canada Limited, Diesel Division, also submitted a specific tariff recommendation with respect to tariff item 42885-1. Thus:

Diesel engines, with a piston displacement of 500 cubic inches per cylinder or less, for use in the manufacture of portable crushing plants, portable screening plants or combination thereof Free M.F.N.

(1) See supra, p. 168.

The company noted that this proposed item would be unnecessary in the event of the adoption of its recommendation for blanket duty-free entry of all diesel engines with a piston displacement of under 500 cubic inches per cylinder.

Most of the other submissions received with respect to the items under review reiterated, or elaborated upon, different aspects of the position put forward by General Motors of Canada Limited.

Midwest Power Products (a division of Midwest Detroit Diesel Ltd.), Winnipeg, Man., requested duty-free entry for G.M. Electro-Motive Diesel 16 cylinder and 20 cylinder turbocharged engines, which, it claimed, "are of a capacity ... not attainable from a Canadian source". This company further felt that consideration should be given "to amending the tariff item [42865-1] in such a way that the continuous brake horsepower together with the RPM be the contributing factors, rather than cubic inch displacement per cylinder since, in effect this is an irrelevant feature depending upon the number of cylinders."

On the subject of the made-in-Canada status of the goods at issue, Atlas Polar Company Limited of Toronto, Ont., submitted that "the lower level of horsepower for consideration as a class or kind not made in Canada could be raised from 500 BHP to 1,700 BHP ... since the smallest Canadian-built Alco Diesel Engine [manufactured by Bombardier Inc.] is the 8-cylinder V-form version developing 1,820 BHP continuously."

Somewhat differently, GEC Diesels Inc., Toronto, Ont., would define diesel and semi-diesel engines produced in Canada as having a continuous rated brake horsepower within the range 1,500 to 5,000 brake horsepower inclusive, together with a piston displacement of between 650 and 850 cubic inches inclusive per cylinder; this company would also extend the list of "not made" products to include diesel engines designed and supplied for operation on heavy fuels having a viscosity in excess of 400 seconds Redwood number 1 at 100 degrees Fahrenheit.

In support of this latter recommendation, the Dominion Marine Association, representing Canada's Inland Waters and Coastal Shipping Fleet, with an interest primarily in tariff item 44025-1, observed that "because of the high cost of fuel, uncertain availability and deteriorating quality, it is imperative that the majority of marine engines required in the future be capable of burning heavy fuel of viscosity 1,500 seconds Redwood number 1 at 100 degrees F". The Association went on to note that "the ability to burn this fuel is restricted to those engines which provide sufficient time and space for proper combustion", since low grade fuels burn more slowly and less easily than better grades. These constraints were seen to translate into the need for engines with a cylinder size of over 700 cubic inches. Such engines, the Association represented, "are inherently of massive construction and high cost and should not be further burdened by the addition of a tariff". However, because diesel engines of a class or kind made in Canada are not currently defined in terms of an upper (as well as a lower) limit on piston displacement - as was the case between May 28, 1970 and August 16, 1978⁽¹⁾ - these large marine diesels can be excluded from duty-free entry under tariff item 44025-1. In the Association's view, "the specifications covering engines made in Canada should be made to correspond more closely to what is actually available from Canadian manufacturers ... i.e. BHP of 700 to 4,500 and a piston displacement of 600 to 700 cubic inches per cylinder."

At a more general level, Ingersoll-Rand Canada Inc. of Sherbrooke, Que., pleaded for a rationalization of the Customs Tariff insofar as engines are concerned, to be accomplished by extending the duty-remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

In a submission made in connection with oilfield machinery and apparatus, the Canadian Association of Oilwell Drilling Contractors indicated an interest in tariff item 42865-1, but did not elaborate.

(1) Ibid.

Conclusions and Recommendations

With respect to the characteristics of diesel engines manufactured in Canada, the Board has noted considerable divergencies between the position as represented by Bombardier Inc. (the only Canadian manufacturer), on the one hand, and the interested importers/users, on the other; there are also differences between the capabilities of the goods produced by Bombardier, as submitted by the firm, and the more generous interpretation of "made" goods as applied by the customs administration.

The only statistic relating to Canadian-made diesel engines apparently accepted by all interested parties pertains to a minimum piston displacement in excess of 500 cubic inches per cylinder. On the basis of the evidence submitted, however, this figure would appear to be well below that of actual Canadian production, while no upper limit has been established. Accordingly, the Board is of the opinion that, in this regard, "made" goods might more appropriately be circumscribed by reference to a piston displacement of between 600 and 700 cubic inches per cylinder.

With respect to continuous rated brake horsepower, Bombardier's claim to produce goods in the range 700 to 4,500 bhp was challenged, in regard to either general or specific usage, both at the bottom end of this range (by GEC Diesels Inc. and Atlas Polar Company Limited) and at the top end (by General Motors of Canada Limited). In view of the element of doubt thus raised, the Board can see no justification for extending the conceptual limits of "made" goods even further to encompass all diesel engines with a continuous rated brake horsepower in the range 500 to 5,000 bhp.

The Board recognizes that in circumscribing the characteristics of diesel engines with respect to a particular end use such as electricity generation, there may be merit in including specifications relating to revolutions per minute, as well as to brake horsepower and piston displacement. However, in an all-embracing tariff item, with no specified end uses, it would seemingly be, at the best, extremely cumbersome, on account of the wide range of possible permutations as between the three aforementioned variables, to attempt to accommodate, as an additional limiting consideration, criteria pertaining to revolutions per minute.

In regard to certain of the other goods named in the tariff items under review, semi-diesel engines were mentioned in some of the submissions to the Board, seemingly because they already form part of the nomenclature of tariff items 42865-1 and 44025-1. However, Bombardier Inc. does not produce semi-diesel engines and neither - so far as the Board is aware - does any other Canadian company. Duty-free access could, therefore, be provided for such goods without harm to domestic production.

Likewise, diesel/gaseous dual fuel engines and diesel engines capable of operating on blended (heavy) diesel fuel oil are not apparently manufactured in Canada. Again, unrestricted duty-free entry would seem warranted. As to what constitutes "blended (heavy) diesel fuel oil", the Board is satisfied from the evidence presented that the term, when applied to diesel engines, refers to heavy fuel of a viscosity of not less than 1,500 seconds Redwood number 1 at 100 degrees Fahrenheit.

With respect to the wider issue of the tariff structure, in 1981, imports of diesel and semi-diesel engines were cleared under no less than 58 different items, including the three residual "n.o.p." items: 42815-1 (diesel engines of a class or kind made in Canada, n.o.p.); 42816-1 (diesel engines of a class or kind not made in Canada, n.o.p.); and 42817-1 (diesel engines of 500 horsepower or less, n.o.p.).

As of January 1987, the rates of duty under all three of these items will be identical (at 9.2 p.c. under the M.F.N. Tariff), which probably explains why tariff items 42815-1 and 42816-1 were not specifically included in Reference No. 157. However, combined imports under these three items accounted for less than 20 per cent of the total value of imports of diesel and semi-diesel engines in 1981.

Of the other tariff provisions applicable to diesel engines, the overwhelming majority allow free entry, while most of the remainder bear rates lower than those applied under the residual items 42815-1, 42816-1 and 42817-1. It seems to the Board unfair that less than one-fifth of the commodity imports should, in effect, be required to bear virtually the full brunt

of the Customs Tariff. No valid reason, other than that of adding to the customs revenue, is served by making "not made" engines (entering under tariff items 42816-1 and 42817-1) dutiable. The Board, therefore, concludes that items 42815-1, 42816-1 and 42817-1 should be brought directly within the ambit of this reference.

Accordingly, the Board recommends the following tariff changes with respect to diesel and semi-diesel engines, and diesel dual fuel engines:

1. The deletion of existing tariff items 42815-1, 42816-1, 42817-1, 42885-1 and 44025-1.

2. The amendment of item 42865-1 to exclude diesel and semi-diesel engines and diesel dual fuel engines.⁽¹⁾

3. The amendment of item 42880-1 to exclude diesel and semi-diesel engines.⁽²⁾

4. The exclusion of any provision for motive power in items replacing tariff items 43505-1 and 43510-1.⁽³⁾

5. The insertion in the Customs Tariff of two new items:

42815-1 Diesel engines, n.o.p., having a continuous rated brake horsepower within the range 700 to 4,500 inclusive, together with a piston displacement of not less than 600 and not more than 700 cubic inches per cylinder; parts thereof

Free	9.2 p.c.	30 p.c.	Free	9.2 p.c.
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42816-1 Diesel/gaseous dual fuel engines; diesel engines capable of burning fuel of a viscosity of not less than 1,500 seconds Redwood No. 1 at 100° Fahrenheit (37.7° Celsius); diesel and semi-diesel engines, n.o.p.; parts of all the foregoing

Free	Free	30 p.c.	Free	Free
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(1) See infra, p. 178.

(2) See infra, p. 265.

(3) See infra, p. 204.

B. L.P.G. Engines, Gasoline Internal Combustion Engines, Reciprocating Natural Gas Engines and Rotary Natural Gas Engines

Submissions

The Board received only one positive proposal concerning these engines named in tariff item 42865-1. This was from Bombardier Inc., whose recommendation paralleled that made with respect to diesel engines. Thus:

L.P.G. engines, gasoline internal combustion engines,
reciprocating natural gas engines, rotary natural gas
engines and parts thereof 9.2 p.c. M.F.N.

Except that in the case of the importation into Canada of any of the dutiable goods under this item the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may on application by a manufacturer, whenever he considers that it is in the public interest and that the goods are not available from production in Canada remit the duty specified.

Bombardier Inc. does not produce any of these engines, neither - to the Board's knowledge - does any Canadian manufacturer, at present, for the end use described in tariff item 42865-1.

Cooper Energy Services Ltd. of Mississauga, Ont., in the context of the Board's review of tariff items pertaining to oilfield machinery and apparatus, indicated that its associate, Rolls-Royce (Canada) Limited, Lachine, Que., produces natural gas-fired jet engines of over 8,000 brake horsepower, and it requested that competing goods should not be "admissible at reduced rates of duty down to free". However, in a subsequent submission the company noted that it "has negligible producer interest at this time in respect of the end use specified" in tariff item 42865-1.

Ingersoll-Rand Canada Inc. indicated that at some future date it may decide to manufacture a rotary natural gas engine of less than 3,000 brake horsepower; however, it appears that the firm has not yet developed any definitive plans in this regard. It is assumed that Ingersoll-Rand would include all of the pertinent goods in its proposed omnibus tariff item for engines, already commented upon.⁽¹⁾

⁽¹⁾ Supra, p. 173.

As already noted,⁽¹⁾ in its main submission, General Motors of Canada Limited, Diesel Division, simply indicated that it would have no objection to the inclusion of any of the aforementioned engines in a revised version of tariff item 42865-1. However, it did not suggest any alternative nomenclature for this purpose.

Conclusions and Recommendation

On the basis of the evidence reviewed, the Board concludes that there is no Canadian production of L.P.G. engines, gasoline internal combustion engines, reciprocating natural gas engines or rotary natural gas engines for the manufacture of electricity generating sets classifiable under tariff item 42701-1. Imports of such engines, and of parts thereof, have not been large, seemingly amounting to no more than \$1.4 million in 1981. Duty-free entry would, therefore, seem to pose no direct threat to Canadian production.

Accordingly, the Board proposes that the pertinent engines be provided for in a revised, shortened version of tariff item 42865-1, the clause "when of a class or kind not made in Canada" being deleted. Thus:

42865-1 L.P.G. engines;
Gasoline internal combustion engines;
Reciprocating natural gas engines;
Rotary natural gas engines having a brake horsepower of up
to 3,000;
Parts of all the foregoing;

All the foregoing for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1

Free	Free	30 p.c.	Free	Free
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(1) Supra, p. 170.

Tariff Item 42875-1

Existing Tariff Provisions

Gasoline internal combustion, water-cooled engines, of types or sizes not made in Canada, for use in the manufacture of portable air compressors and transit concrete mixers

Free Free 30 p.c. Free Free

This is a temporary tariff item, created under the authority of section 273 of the Customs Act, to cover certain types and sizes of engines imported for the stated purposes, originally created in 1970 and now scheduled to expire on June 30, 1983. The item is not bound under GATT.

The parent item, to which the goods would revert if the item should expire, is item 42805-2: "Engines and complete parts thereof, n.o.p.". Under this item, the MTN bound rate is 9.2 p.c. This same item would apply to any engines excluded from item 42875-1 as being of "types or sizes" made in Canada. Unlike the parent item, the referred item makes no provision for parts; consequently, parts for the goods of item 42875-1 would be dutiable according to their own nature, with complete parts falling under item 42805-2.

Imports

Imports under tariff item 42875-1 during the past decade have generally been very small, with zero shipments in some years. In 1978-80 average annual imports under the item were valued at approximately \$4,000. However, in 1981, for some unknown reason, the value of importations jumped to \$177,000.

Submissions

Ingersoll-Rand Canada Inc. stated that, to the best of its knowledge, there are no gasoline engines manufactured in Canada which can be used for the purposes described in tariff item 42875-1. The company indicated that it had built gasoline-engine-driven air compressors in the past and might do so again. It recommended retention of the item.

General Motors of Canada Limited, Diesel Division, indicated that, while it produces gasoline internal combustion water-cooled engines of over 75 continuous brake horsepower, it would be agreeable to the duty-free admission of lesser horsepower engines of this type, such as are used in the manufacture of portable air compressors and transit concrete mixers.

Conclusions and Recommendation

It is the Board's understanding that gasoline internal combustion, water-cooled engines of over 75 continuous brake horsepower are made in Canada but that engines for use in the manufacture of portable air compressors and transit concrete mixers have less than 75 bhp, and are not made in Canada.

Lack of use of item 42875-1 might seem a cogent reason for its deletion, allowing the goods to fall elsewhere in the Customs Tariff. However, in view of the interest expressed by Ingersoll-Rand Canada Inc., and the recent sudden increase in import activity, the Board is of the opinion that a modified version of this tariff item might be retained without the qualifying clause "of types or sizes not made in Canada". The following wording is envisaged:

42875-1 Gasoline internal combustion, water-cooled engines, of 75 continuous brake horsepower or less, for use in the manufacture of portable air compressors and transit concrete mixers

Free	Free	30 p.c.	Free	Free
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Tariff Item 43864-1 Ex.

Existing Tariff Provisions

Unserviceable parts of internal combustion engines, commonly known as "cores", for remanufacturing in Canada, namely: electric starter motors, generators and alternators, 32 volts or less. Parts, of a class or kind not made in Canada, for use in the remanufacture of the foregoing electric starter motors, generators or alternators

Free	Free	27.5 p.c.	Free	Free
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Only the goods covered by the latter part of the item are before the Board in this reference. However, it is necessary to give the entire item to understand the context.

This is a temporary tariff item, created originally in 1978, and now scheduled to expire on June 30, 1983, designed to assist engine component rebuilders by giving them free entry (except under the General Tariff) for the "cores" to be rebuilt, and to "not made" parts for those "cores". The item is not itself bound under GATT.

A part imported under this item must be suitable for use on the particular motor, generator or alternator being rebuilt - i.e., it must often be a part of a "custom-built" component for a certain model of car. Consequently, the administration of the "not made" provision has tended to be based on availability of the specific required part rather than on the more usual criteria.

In the absence of this or any other appropriate end-use provision, or when of a class or kind made in Canada, these parts would generally fall under tariff item 43829-1, which has a GATT bound rate of 9.2 p.c. Other possibly relevant provisions include "not made" items 43806-1, 43816-1 and 43821-1, which are duty free.

Imports

The annual value of imports under this item has quadrupled since its establishment in 1978. In 1981 imports under both the referred and non-referred provisions of the item were valued at \$10.7 million. The value of imports under the referred extract is estimated at \$7.9 million.

Submissions

The tariff treatment of the goods provided for under the referred portion of item 43864-1 attracted four submissions from importers/users and none from manufacturers of the goods at issue.

Bowering Customs Brokrs of Fort Erie, Ont., representing a wholesaler of used automotive electrical cores and parts engaged in supplying many of the Canadian engine component rebuilders, commented adversely on the administrative burden imposed in connection with the filing of end-use certificates. This company proposed a continuation of the duty-free treatment of the pertinent goods, the removal of the end-use designation from the parts provision of the existing item, and the deletion of the clause "of a class or kind not made in Canada". The revised item would be worded:

Unserviceable parts ... or less. Parts for the manufacture of the foregoing electric starter motors, generators or alternators.

As an alternative to the above proposal, the company suggested that "with the possible removal of the end use restriction in the wording of the tariff", the existing arrangement might be continued, administration to be on the basis of updated made-in-Canada rulings with respect to specific parts.

The Automotive Parts Rebuilders Association, Washington, D.C., U.S.A., with 53 Canadian members, urged that "the subject tariff item be retained in its present text without rates of duty". As an alternative, it proposed retention of the present nomenclature without the qualifying clause "of a class or kind not made in Canada". In support of its position, the Association averred that the parts at issue are neither manufactured by domestic suppliers to the after- market nor are available for purchase from original equipment manufacturers in Canada. Should the Board recommend that the parts be made dutiable, the Association foresaw that its members would be forced to raise their prices above a competitive level, resulting "in their eventual foreclosure from the marketplace". In a separate submission, Cantire Products Limited of Toronto, Ont., one of the members of the aforementioned association, advanced similar arguments, and also urged retention of the status quo.

The remaining brief in connection with tariff item 43864-1 was submitted by Volkswagen Canada Inc., which operates a remanufacturing plant in Scarborough, Ont. This company indicated that for reasons of quality control, most of the parts which it requires for the remanufacture of electric starter

motors, generators or alternators are imported from West Germany. These parts are considered to be unavailable from Canadian sources. However, the company claimed that, to date, it had been unable to benefit from the duty-free treatment accorded under tariff item 43864-1 because it was judged as not qualifying under the end-use provision⁽¹⁾. Consequently, most of its imported parts had been admitted under tariff item 43829-1 at a current (1982) rate of 12.5 p.c., scheduled to decline by 1987 to 9.2 p.c. The company's solution to the problem at hand was to propose a new tariff item (as opposed to a part-item) with the following wording:

Parts for the remanufacture of electric starter motors,
generators or alternators

Free	Free	27.5 p.c.	Free	Free
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Conclusions and Recommendation

The Board does not know whether there are any Canadian manufacturers of the parts provided for in tariff item 43864-1. An "uncertain" made-in-Canada designation was attached to two commodity classes in the staff appraisal⁽²⁾; however, these classes, or the goods encompassed by them, are now adjudged to have been coded to this tariff item in error. The "not made" status attached to the remaining (relevant) classes has not been disputed before the Board, and, therefore, remains unchanged.

Although the Board did not go closely into the question of the administration of the item, it appears that a construction has been placed upon the term "remanufacturing" which would, in effect, limit eligibility under the item to business enterprises with more than 50 per cent of their resources engaged in this activity. It seems to the Board that such an intent does not follow from the wording of the item. Further, some facilities may be seen as engaging in "repair" rather than "remanufacture" - a distinction which, from the standpoint of the process involved and the product achieved, is somewhat difficult to rationalize or comprehend.

(1) It is understood that, as tariff item 43864-1 is currently administered, only end users whose major activity is "remanufacturing" are able to enjoy duty-free access to the parts entered thereunder.

(2) Staff Appraisal. Engines and Parts, p. 40.

The Board is of the opinion that distinctions of the above kinds should be kept to a minimum; not only are they apt to result in statutorily-unintended inequalities of treatment, but they also tend to impose a heavy load of paperwork upon suppliers, who are entrusted with the task of ensuring that administrative regulations are complied with. However, the Board would be hesitant to propose the complete removal of all end-use restrictions, as suggested by Bowering Customs Brokers.

Accordingly, the Board recommends that the "parts" provision in existing tariff item 43864-1 be deleted, and that a new item be written into the Customs Tariff, with the following wording:

43864-2 Parts for the remanufacture or repair of electric starter motors, generators or alternators, 32 volts or less

Free	Free	27.5 p.c.	Free	Free
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Tariff Item 44210-1

Existing Tariff Provisions

Rotors, blade diaphragms, spindle discs, shafts and blades, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use [by turbine manufacturers] in the repair or remanufacture of gas or steam turbines and parts thereof entitled to entry under tariff item[s 42805-1, 42805-2 and] 42805-3⁽¹⁾

Free	Free	Free	Free	Free
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(1) These three tariff items are worded as follows:

Item 42805-1:	Boilers and complete parts thereof, n.o.p.				
1/1/87	12.5 p.c.	12.5 p.c.	30 p.c.	8.5 p.c.	12.5 p.c.
Item 42805-2:	Engines and complete parts thereof, n.o.p.				
1/1/87	9.2 p.c.	9.2 p.c.	30 p.c.	7.5 p.c.	9.2 p.c.
Item 42805-3:	Turbines, steam or gas, and complete parts thereof, n.o.p.				
	15 p.c.	15 p.c.	30 p.c.	10 p.c.	15 p.c.

This tariff item provides duty-free entry for metallic components of a class or kind not made in Canada when imported for use in the repair or remanufacture of gas or steam turbines and turbine parts. In a sense, the item supplements tariff item 44205-1, which allows free entry for these and other "not made" metallic materials when imported for use in the manufacture of the goods covered by items 42805-1, 42805-2 and 42805-3, as well as by certain other items.

Effective October 28, 1980, the wording of item 44210-1 was altered by the striking out of the phrase "by turbine manufacturers", and by deletion of the reference to tariff items 42805-1 and 42805-2. Item 44210-1 is bound at Free under the MTN.

In the absence of this item and of item 44205-1, or if "of a class or kind made in Canada", the components, if "complete parts", i.e. ready for use in the condition as imported, would be dutiable under tariff item 42805-3. If the components were not "complete", but required further processing, each would be dutiable according to its own nature or material, usually under an item with a bound M.F.N. rate of 10.2 p.c.

Imports

The annual value of imports under tariff item 44210-1 has shown a sharp upward trend in recent years, increasing from \$1.3 million in 1979 to \$5.0 million in 1980, and to \$9.0 million in 1981. The increase in the value of imports may reflect, in part, the broadening of the end-use provision in October 1980, mentioned above.

Submissions

Submissions were received from two Canadian manufacturers of the goods under review and three importers/users.

Westinghouse Canada Inc. of Hamilton, Ont., indicated that it manufactures all the named components for single-shaft and two-shaft gas turbines of up to 50,000 hp, for single-stage steam turbines of up to 5,000 hp, and for multi-stage steam turbines of up to 80,000 hp. Subsequent to the public hearing, it was established that some of the pertinent goods are imported by the firm in a semi-finished condition for further manufacture and assembly. With respect to a possible alternative tariff arrangement, Westinghouse Canada Inc. proposed a specific product listing of the "not made" turbine components for duty-free entry, as at present, with the "made" goods covered by a n.o.p. ("not otherwise provided for") basket provision attracting duty.

In response to the staff appraisal, Canadian General Electric Company Limited (CGE), Toronto, Ont., indicated that it manufactures blade diaphragms for multi-stage steam turbines within the range 150 to 800 megawatts (201,000 to 1,073,000 hp). These diaphragms are for original equipment, rather than repair purposes. The company stated that it also imports some diaphragms under tariff item 44205-1. It was indicated that "CGE wishes to continue duty free access for its blade diaphragms under tariff item 44210-1 as well as tariff item 44205-1". Because of the close relationship between these two items, the company requested that any decision by the Board with respect to item 44210-1 should "be postponed until such time as item 44205-1 comes before the Board in Phase II of the Reference"⁽¹⁾. The company, however, indicated that its preference would be for the continuation of the present wording of item 44210-1.

Both Cooper Energy Services Ltd. and Solar Turbines Canada represented that the components at issue are not interchangeable as between the various makes of gas turbine and, in consequence, the imposition of a duty on the components would not protect Canadian products but would merely increase the costs of inputs to Canadian users. In the view of Cooper Energy Services Ltd., the basis for establishing any new dutiable area should be the

(1) The public hearing with respect to tariff item 44205-1 took place on May 10, 1982.

replacement of "class or kind" by the narrower concept of "type or size"; however the company's first preference would be for the wording of the existing item to be retained, with the clause "of a class or kind not made in Canada" deleted.

Similar preferences were expressed by Solar Turbines Canada, which uses imported components in the production of gas turbines of 10,300 hp and less. This company indicated that as a result of an outstanding [apparently out-dated] "made-in-Canada" ruling by the Department of National Revenue, covering components for gas turbines of up to 15,000 hp, it is obliged to pay duty on imports of repair parts for its turbines, except for blade diaphragms, which it purchases from a Canadian supplier. However, the company submitted that, although Westinghouse Canada Inc. had at some time in the past produced gas turbines in the range 4,000 to 11,730 hp, it no longer did so, and no longer manufactured the components for such turbines. In commenting upon possible tariff options, Solar Turbines noted that a "type and size" approach (which it favoured as a second choice to the deletion of the offending "made-in-Canada" clause) could be embodied either in the wording of a revised item or by way of a duty remission scheme applied on the basis of "availability" criteria. However, in the latter instance, "all availability decisions and rulings should be made subject to appeal to an independent tribunal such as the Tariff Board". The company joined CGE in urging the Board to delay reaching a decision on this item until after the public hearing on tariff item 44205-1.

The remaining submission with respect to item 44210-1 was received from Ingersoll-Rand Canada Inc., which recommended that the goods named in the item be made dutiable but subject to duty remission when not available from Canadian production.

Conclusions and Recommendation

The evidence indicates that Westinghouse Canada Inc. manufactures all the components named in tariff item 44210-1 for use in single-stage and multi-stage steam turbines with rated capacities of up to 5,000 hp and 80,000 hp respectively. Canadian General Electric Company Limited makes blade

diaphragms for multi-stage steam turbines with rated capacities in the range 201,000 to 1,073,000 horsepower. With respect to components for gas turbines, the Board accepts that Westinghouse has a production interest in this area, which is presently limited to parts for turbines with rated capacities between 11,730 and 50,000 horsepower.

Although the goods at issue have, at least in theory, been treated on a "class or kind" basis in the past, they are, in the Board's view, manifestly unsuitable for such categorization. A classification process based on "type or size" criteria would seemingly narrow the range within which questionable judgments might be promulgated, but, even so, as was implicitly recognized in the brief submitted by Solar Turbines Canada, such an arrangement could be a continuing source of contention between exporters/importers and the machinery of customs administration. For the "type or size" concept to be applied in an equitable, non-arbitrary manner, it is desirable that the goods at issue should be basically simple, and easily substitutable for each other. Such is most likely to be the case with primary materials or products in the first stages of manufacture. However, while it appears to be Board that turbines in a given size range may be highly competitive in function and usage, the parts from which they are made - especially for repair or remanufacture (as required by item 44210-1) - are not so substitutable. Such parts are not only likely to be highly specific to a turbine of a particular type and size, but also to a particular make and model. As represented by the importers of the pertinent components, the imposition of a duty on such goods will not serve to protect Canadian production of parts but will merely increase the users' costs.

Accordingly, the Board can see no justification why any of the goods named in this "not made" item should be made dutiable. It, therefore, proposes retention of tariff item 44210-1, the clause "of a class or kind not made in Canada" being deleted. Thus:

44210-1 Rotors, blade diaphragms, spindle discs, shafts and blades,
wholly or in chief part of metal; when imported for use
in the repair or remanufacture of gas or steam turbines
and parts thereof entitled to entry under tariff item
42805-3

Free

Free

Free

Free

Free

CHAPTER 8. OFF-HIGHWAY VEHICLE ACCESSORIES AND
RAILWAY ROLLING STOCK

Introduction

Four of the tariff items referred to the Board relate to railway equipment and four (including two items referred in part only) pertain to accessories and parts for use on, or in the manufacture of, internal combustion tractors, road graders or scrapers, and street railway cars respectively. All of these items, except 42761-1,⁽¹⁾ encompass goods "of a class or kind not made in Canada".

Submissions pertaining to goods falling within this group of tariff provisions were received from ten parties. Each item attracted at least one submission or interested observation. However, representations were made mainly in relation to specific commodities, no interest being evidenced in many of the goods admissible under items comprising this study group.

In part, this lack of response may have simply reflected the low import values attaching to some of these tariff provisions.⁽²⁾ However, imports under item 42762-1 (encompassing machines and tools for use on internal combustion tractors) and item 43705-1 (relating to materials used in the construction or repair of railway signal systems) have been substantial, although in recent years - probably reflecting the downturn in construction activity in the early 1980's - shipments admitted under the former item have fallen off very sharply. Indeed, in respect of only one of the referred items⁽³⁾ was there any growth in the value of imports between 1980 and 1981. It is possible, although to what extent is unclear, that part of this general contraction in imports could have been prompted by enhanced Canadian self-sufficiency in the context of a weaker Canadian dollar.

(1) See infra, p. 190.

(2) See Appendix III, infra, p. 319.

(3) Tariff item 43710-1 (see infra, p. 206).

Tariff Items 42761-1 and 42762-1

Existing Tariff Provisions

This pair of items, designed to cover certain tractor attachments and accessories, and their parts, is worded as follows:

Machines and tools, including blades, loaders, rippers, rakes and related operating and controlling gear; all the foregoing for use on internal combustion tractors entitled to entry under tariff item 40938-1;⁽¹⁾

42761-1	Of a class or kind made in Canada; parts thereof				
1/1/82	2.5 p.c.	12.8 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
42762-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	35 p.c.	Free	Free

The M.F.N. rate applying to item 42761-1 was bound at 9.2 p.c. in the MTN. Free entry under tariff item 42762-1 is also bound under GATT.

In the absence of these items, and regardless of their "made/not made" status, some of the relevant goods might be admitted free of duty as "accessories" or "parts" under item 40938-1. Goods for agricultural use might, likewise, be allowed free entry under tariff item

(1) The nomenclature of tariff item 40938-1 reads as follows:

Internal combustion tractors other than highway truck-tractors and other than the following integrated self-propelled machines: front-end loaders or tractor shovels, tractor dozers, log skidders, log loaders, fork lift or lift trucks, combination excavating and transporting scraper units, combination excavating and loading machines, street sweepers, mobile compressors, and snow moving machines; accessories, n.o.p., and parts thereof, for tractors entitled to entry under this item; parts of tractors entitled to entry under this item

Free	Free	Free	Free	Free
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40924-1, while certain attachments for lawn and garden tractors might be placed under items 42505-1, 42510-1 and 42515-1, pertaining to lawn-mowers and their parts, with bound rates of duty of 10.2 p.c. and 9.2 p.c.⁽¹⁾ Otherwise, those goods considered to be machines, or accessories, attachments, control equipment or tools for use therewith, or parts of all the foregoing, would fall under item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Some products would probably be classified according to their own material or nature and would have a bound rate of 10.2 p.c., with no provision for lower rates for goods "of a class or kind not made in Canada" or when "not available" from domestic sources.

Imports

The annual value of imports entering under tariff items 42761-1 and 42762-1 in 1981 amounted to \$754,000 and \$8.9 million respectively. These figures represented sharp declines from the corresponding values of \$8.9 million and \$82.5 million recorded in 1979.

Submissions

In spite of the wide range of goods encompassed by these tariff provisions, and the substantial value of imports entering thereunder, no representations pertaining to machines or tools for use on internal combustion tractors were made to the Board at the group hearing.

In connection with the hearing on oil-field equipment, R. Angus Alberta Limited of Edmonton, Alta., speaking as a distributor of products of the Caterpillar Tractor Co., advocated the replacement of the "class or kind" criterion with that of "availability", on the ground that goods were on occasion ruled "made", and therefore dutiable, even when no Canadian manufacturer was currently capable of supplying the needed products. The Caterpillar Tractor Co. produces goods that would fall under items 42761-1 and 42762-1, and possibly 42765-1.

(1) For the nomenclature of alternative or related tariff provisions, see Appendix II, infra, pp. 286-7.

Subsequent to the group hearings, in response to the staff appraisal, Beales Steel Products Ltd., Langley, B.C., indicated that it produces rippers (as defined by commodity classes 522-75-20, 522-75-30 and 522-75-90), while The Toro Company, Minnetonka, Minnesota, U.S.A., advised that there is no Canadian production of rotary brooms of 58 inches [diameter] or less, for attachment to tractors (c.c. 763-37-20).

Conclusions and Recommendations

On reviewing the list of reported commodity classes entering under tariff items 42761-1 and 42762-1,⁽¹⁾ the Board initially had some reservations regarding the appropriateness of these customs categories in relation to goods with an agricultural connotation (c.c. 541-47-30, 541-99-89, 543-29-29, 544-49-40, 546-09-20 and 546-25-10), especially in view of the more specific provision for farm machinery and tools made in tariff item 40924-1. However, the Board now understands that the recipients of farm goods entering under the referred items are not necessarily commercial farmers; thus, the parks and recreation departments of municipalities and landed institutions typically engage in certain farm-type operations, although, in most cases, not "on the farm", as required by item 40924-1. Tariff item 42762-1 puts such users on a par with commercial farmers in respect of duty-free access to certain necessary articles of equipment "of a class or kind not made in Canada".

The same categories of user may also figure prominently as purchasers of lawn and garden equipment admitted under the referred items. Such equipment is indicated as including lawn sweepers (c.c. 763-99-24) and attachments for lawn and garden tractors (c.c. 551-07-30). However, with the prime exception of lawn-mowers (alternatively classifiable under dutiable items 42505-1, 42510-1 and 42515-1), many of these goods would appear to be eligible for duty-free entry under other provisions of the Customs Tariff or for duty remission if admitted under item 42700-1 and judged to be not available from Canadian production.

(1) Staff Appraisal. Off-Highway Vehicle Accessories and Railway Rolling Stock, pp. 23-4.

With respect to classes of goods identified in the pertinent staff appraisal as being of "uncertain" made-in-Canada status, no known domestic producers have been identified in regard to power transmission hydraulic valves and controls (c.c. 504-87-89 and 504-89-20) and backhoe attachment units for tractors (c.c. 521-34-30). Of the attachments for lawn and garden tractors (c.c. 551-07-30) referred to above, no domestic manufacturers have been identified in regard to under-attached lawn-mowers, in-front lawn-mowers, plows, dozer blades, dump carts and front-end loaders.

On the other hand, further inquiries have revealed the existence of some Canadian production within each of the remaining commodity classes formerly categorized as "uncertain".⁽¹⁾ In addition, hydraulically-operated winches and winches of the well-logging type (c.c. 512-32-35 and 513-32-55) manufactured in Canada are now adjudged to have capacities of up to 60,000 lb, instead of the 50,000 lb previously reported.⁽²⁾

It appears to the Board that there are no especially complicating considerations in the way of an eo nomine treatment of the aforementioned tariff provisions, and the following wording is therefore proposed:

Machines and tools, including blades, loaders, rippers, rakes and related operating and controlling gear; all the foregoing for use on internal combustion tractors entitled to entry under tariff item 40938-1; parts of the foregoing:

42761-1 Other than the following

2.5 p.c. 9.2 p.c. 35 p.c. 2.5 p.c. 9.2 p.c.

42761-2 Hydraulic pumps, hydraulic valves, hydraulic controls, shafts other than camshafts or driveshafts, all for power transmission;

(1) See Appendix IV, infra, pp. 324-38 for a listing of the Canadian producers of these classes of goods.

(2) See n. 1, above.

Hydraulically-operated winches with capacities in excess of 60,000 pounds;
 Well or logging type winches with capacities in excess of 60,000 pounds;
 Automotive type winches;
 Road sweepers;
 Pipelaying attachments for construction purposes, other than those with a capacity not exceeding 20,000 pounds at 4 feet from side of machine;
 Attachments for lawn and garden tractors, other than pull-behind lawn mowers and lawn rollers;
 Lawn sweepers;
 Rotary brooms, 58 inches or less in diameter;
 Parts of all the foregoing

Free	Free	35 p.c.	Free	Free
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Tariff Item 42765-1 Ex.

Existing Tariff Provisions

This is a temporary tariff item, first introduced in 1956 and now scheduled to expire on June 30, 1983, for certain equipment used in making road graders or road scrapers. The full wording of the item follows, but the Board is concerned only with the underlined clauses.

Hydraulic equipment, torque converters and engine-over-axle type transmissions, of a class or kind not made in Canada; wheel rims 24 inches or more in diameter; all of the foregoing, and parts thereof, for use in the manufacture of road graders or scrapers

Free	Free	35 p.c.	Free	Free
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While tariff item 42765-1 is not in itself bound under GATT, the goods would be covered by the bindings affecting the parent items (42700-1 and 44603-1), to which they would revert if the item were allowed to expire or, in the case of certain of the products before the Board, if they were held to be of a class or kind made in Canada.

However, torque converters and hydraulic couplings and parts thereof, for use in the manufacture of graders or scrapers, are presently admissible without payment of M.F.N. duty, under temporary tariff item 42830-1, currently scheduled to expire on June 30, 1983.⁽¹⁾

In the absence of both item 42765-1 and item 42830-1, pertinent goods considered to be machines, or tools, accessories, attachments or control equipment for use with machines, or parts of all the foregoing, would fall under item 42700-1, with a bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program. For other goods, classifiable as "manufactures of iron or steel, n.o.p.", the alternate item would be 44603-1, with a bound rate of 10.2 p.c. and no provision for relief for "not made" or "not available" products.

Imports

The value of imports under both the referred and non-referred provisions of item 42765-1 in 1981 amounted to \$7.1 million. This represented a considerable decline from the corresponding peak figure of \$10.0 million recorded in 1978.

Submissions

The sole submission addressed directly to tariff item 42765-1⁽²⁾ came from Champion Road Machinery Limited, Goderich, Ont., which stated that the firm is the only Canadian producer of road graders and that road scrapers

(1) The wording of tariff item 42830-1 is as follows:

Diesel and semi-diesel engines, torque converters and hydraulic couplings, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, backhoes, graders or scrapers and snowblowers

Free	Free	30 p.c.	Free	Free
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(2) See also comments respecting brief received from R. Angus Alberta Limited, supra, p. 191.

are not made in Canada. The company also claimed that torque converters for road graders are not produced in Canada, nor are hydraulic pumps. There is some assembly of hydraulic valves by the Canadian subsidiary of a United States company, using imported parts. Champion noted that its own competitive position could be undermined if it were to be denied duty-free access to components imported under item 42765-1, and the company implied that free entry should be extended to all grader parts.

Conclusions and Recommendations

No representations have been made by domestic manufacturers of any of the goods encompassed by the tariff item under review. Moreover, no evidence of Canadian production has been found with respect to any of the classes of goods reported as entering thereunder. The Board, therefore, concludes that hydraulic equipment, torque converters and engine-over-axle type transmissions for use in the manufacture of road graders or scrapers are not made in Canada, and that all such goods should be eligible for duty-free entry. However, the Board is not prepared to recommend that duty-free access should be extended to include all components used in the manufacture of road graders or scrapers. Such an extension could have damaging consequences for Canadian producers of pertinent goods not referred to the Board.

It appears to the Board that the most appropriate tariff solution would be to retain the wording of the referred item without the clause "of a class or kind not made in Canada". Such a solution would seemingly go some way towards meeting the concerns expressed by Champion Road Machinery Limited.

Accordingly, the Board proposes that existing tariff item 42765-1 be slightly modified to read as follows:

42765-1 Hydraulic equipment, torque converters and engine-over-axle type transmissions; wheel rims 24 inches or more in diameter; all the foregoing, and parts thereof, for use in the manufacture of road graders or scrapers

Free

Free

35 p.c.

Free

Free

Implementation of the above recommendation would make redundant the provision regarding "torque converters and hydraulic couplings ... for use in the manufacture of ... graders or scrapers", contained in temporary tariff item 42830-1.⁽¹⁾ Assuming that the Minister desires to renew the residual provisions of this temporary item, an appropriate wording would be:

42766-1 Torque converters and hydraulic couplings, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, backhoes and snowblowers

Free	Free	30 p.c.	Free	Free
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Provision would also need to be made for the diesel and semi-diesel engines of tariff item 42830-1. Thus:

42830-1 Diesel and semi-diesel engines, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, backhoes, graders or scrapers and snowblowers

Free	Free	30 p.c.	Free	Free
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Tariff Item 43425-1 Ex.

Existing Tariff Provisions

This item provides for street-car components. The full wording of the item, with the relevant clauses underlined, is as follows:

Trucks of welded design with tubular frame, cast steel cross members, rubber mountings and rubber inserted wheels, of a class or kind not made in Canada, and body shells of welded sheet steel, for use in the construction of street railway cars, not to include electric motors or magnetic truck brakes; complete parts of the foregoing

Free	7.5 p.c.	35 p.c.	Free	7.5 p.c.
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(1) See supra, p. 195, n. 1.

The M.F.N. rate of 7.5 p.c. is bound under GATT.

In the absence of item 43425-1, or when ruled to be of a class or kind made in Canada, the goods underlined above, and their complete parts, would be classified as parts of "railway cars, n.o.p." under tariff item 43800-1, with a M.F.N. rate of 17.5 p.c., bound under GATT (Kennedy Round). It will be noted that "complete parts" of the goods covered by item 43425-1 fall under this latter item regardless of their own made-in-Canada status. Other parts are classifiable under item 43800-1.

Imports

The value of goods imported under both the referred and non-referred provisions of this item has been negligible in most years since 1966, with the notable exception of 1977, when imports were valued at \$4.4 million. The corresponding figure for 1981 was \$25,000. The principal explanation of this situation probably lies in the decline of street cars as a mode of public transportation. However, expanded production in Canada of the goods under reference could also be a significant factor.

Submissions

Bombardier Inc. of Montreal, Que., submitted the only brief in connection with tariff item 43425-1. In this brief, the firm opted for the item to be retained, but with the phrase "of a class or kind not made in Canada" deleted from the nomenclature. Subsequently, at the public hearing, the firm asked for the item to be struck from the Customs Tariff, thereby placing the pertinent goods under item 43800-1 at a M.F.N. rate of duty of 17.5 p.c.

Conclusions and Recommendation

All of the relevant commodity classes imported under tariff item 43425-1 are understood by the Board to encompass goods which are made in Canada.⁽¹⁾ The process of the inquiry has not brought to light any pertinent classes of "not made" goods falling within the referred provisions.

This raises the question of the continuing relevance of these provisions, since it appears to the Board that the goods at issue might more appropriately be accommodated, at higher rates of duty, under tariff item 43800-1.

Deletion of item 43425-1, in its entirety, would involve goods not included in this reference, i.e. body shells of welded sheet steel. However, these goods have not figured prominently among recent imports under this item; indeed, total imports thereunder have been slight.

Accordingly, it is the Board's recommendation that tariff item 43425-1 be struck from the Customs Tariff, and not be replaced.

Tariff Items 43505-1 and 43510-1

These items are linked in that they both apply to railway locomotives and both were the subject of a single submission by a Canadian manufacturer.

Existing Tariff Provisions

I. Item 43505-1 (and 43405-1)

Item 43505-1 provides for certain railway equipment, of a class or kind not made in Canada, used in mining, metallurgical or sawmill operations. The item is worded:

(1) Staff Appraisal, p. 30.

Locomotives and motor cars for railways, of a class or kind not made in Canada, and parts thereof (including motive power and parts thereof, of a class or kind not made in Canada), for use exclusively in mining, metallurgical or sawmill operations

Free	Free	20 p.c.	Free	Free
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Despite its somewhat convoluted wording, the item is interpreted as covering the following goods when imported for the uses cited in the item:

- (1) locomotives and motor cars for railways, with or without motive power, when of a class or kind not made;
- (2) parts of the goods in (1), other than motive power and parts thereof, regardless of their own "made" or "not made" status;
- (3) motive power for such locomotives and cars, when the said motive power, nowadays usually a diesel-electric motor, is "not made", and "not made" parts of such motive power.

In 1948, entry under the M.F.N. Tariff was bound at Free for "locomotives and motor cars for railways, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in mining, metallurgical or sawmill operations". In the recently concluded MTN, "motive power and parts thereof, of a class or kind not made in Canada for locomotives and motor cars for railways of a class or kind not made in Canada, for use exclusively in mining, metallurgical or sawmill operations", were bound at 15 p.c. M.F.N., although the effective rate continues to be Free. It will be noted that except for parts of motive power, the binding for parts is restricted to "complete" parts.

The closest equivalent item for "made" goods is item 43405-1, which is also restricted in application to products for use in mining, metallurgical or sawmill operations - viz:

Locomotives and motor cars for railways, for use exclusively in mining, metallurgical or sawmill operations, n.o.p., and chassis, tops, wheels and bodies for the same, n.o.p.

1/1/82	15 p.c.	16.6 p.c.	35 p.c.	11 p.c.	15 p.c.
1/1/87		15 p.c.		10 p.c.	

The M.F.N. rate applying to item 43405-1 is bound at 15 p.c. Parts not covered by the item would probably be dutiable according to their own material or nature, often with bound rates of 10.2 p.c. Diesel engines and parts thereof generally fall under items 42815-1, 42816-1 and 42817-1, all with bound rates of 9.2 p.c., but the last-named item (covering engines of 500 horsepower or less) encompasses only "complete" parts.

II. Item 43510-1 (and 43410-1)

Item 43510-1 covers diesel switching locomotives (with or without motive power), motive power for the same, and parts of such locomotives or parts of motive power for such locomotives, in all cases subject to the "not made" restriction.

Diesel switching locomotives, including motive power, and
parts of the foregoing, of a class or kind not made in
Canada

Free	10 p.c.	20 p.c.	Free	10 p.c.
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In 1948 the M.F.N. rate of 10 p.c. was bound for diesel switching locomotives of a class or kind not made in Canada. In the MTN this same binding was extended to "motive power and parts thereof, of a class or kind not made in Canada, for diesel switching locomotives, of a class or kind not made in Canada". There appears to be no binding for parts other than those of motive power.

Locomotives and certain named parts, when "made", fall into item 43410-1, with a bound rate of 15 p.c. Diesel engines and parts (complete parts in the case of engines of 500 horsepower or under) are bound at 9.2 p.c. (items 42815-1, 42816-1 and 42817-1). Other locomotive parts would be classified, if "made", according to their own material or nature, usually at a bound rate of 10.2 p.c.

these two items, as well as in item 43405-1, should be withdrawn, so that all locomotives would fall under existing item 43410-1 as locomotives, n.o.p. with a bound rate of 15 p.c. With respect to the provision for motive power in the referred items, the company suggested that the relevant goods, being diesel engines, should be dealt with separately as such.

Conclusions and Recommendations

As indicated in the pertinent staff appraisal,⁽¹⁾ and as contended by Bombardier Inc., all relevant classes of locomotives are apparently made in Canada. However, there is no suggestion that locomotives other than diesel locomotives are so made. This suggests that the tariff provisions for locomotives might be reconstructed on the basis of diesel-engine capacity.

With respect to the provision for "motor cars for railways" in item 43505-1, information available to the Board suggests that no imports of such goods under either the item or its alternate item 43405-1 have occurred in recent years. This would suggest that the provision might be dropped from the item proposed as a replacement for the "not made" item.

Various proposals with respect to diesel engines are discussed elsewhere in this report.⁽²⁾ The Board's recommendations concerning motive power for locomotives have been made keeping in mind its recommendations on diesel engines. Assuming acceptance of these latter recommendations, the Board envisages the replacement of existing items 43405-1, 43505-1 and 43510-1 by the following provisions:

43405-1 Locomotives, powered or capable of being powered by diesel engines described in tariff item 42815-1,⁽³⁾ and motor cars for railways; all the foregoing for use exclusively in mining, metallurgical or sawmill operations, and chassis, tops, wheels and bodies for the same, n.o.p.

15 p.c. 15 p.c. 35 p.c. 10 p.c. 15 p.c.

(1) Ibid., p. 35.

(2) Supra, pp. 168-76.

(3) As modified by the Board's recommendations respecting diesel engines of a class or kind made in Canada (see supra, p. 176).

43505-1 Railway locomotives for use exclusively in mining, metallurgical or sawmill operations, n.o.p.; parts of the foregoing including motive power and parts thereof but not including engines, or parts thereof, provided for in tariff item 42816-1⁽¹⁾

Free	Free	20 p.c.	Free	Free
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43510-1 Diesel switching locomotives not including those powered or capable of being powered by engines described in tariff item 42815-1;⁽²⁾ parts thereof, not including motive power and parts thereof

Free	10 p.c.	20 p.c.	Free	10 p.c.
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Tariff Items 43705-1 and 43710-1

Existing Tariff Provisions

These items are linked in that they both relate to railway signal systems.

Item 43705-1 is very broad, covering all materials and parts of a class or kind not made in Canada used in the manufacture or repair of railway signal systems. The item is worded as follows:

Materials, including all parts, of a class or kind not made in Canada, used in the construction or repair of railway signal systems

Free	Free	30 p.c.	Free	Free
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The M.F.N. rate of Free was bound in the MTN.

⁽¹⁾ See supra, p. 203, n. 3.

⁽²⁾ See supra, p. 203, n. 3.

The words "materials, including all parts" are capable of a very broad interpretation. In the absence of this item, or when "made", the goods would all be classified according to their own nature or material. There is no eo nomine provision for railway signal systems and many of the components would otherwise be classified under items in the electrical schedule (which have provisions for "complete parts" and bound rates of 10.2 p.c.), or under machinery items (which also cover parts, with a bound rate of 9.2 p.c.), subject to the Machinery Duty Remission Program. Many items providing for unenumerated manufactures of various materials also have bound rates of 10.2 p.c., but a number of other rates are also relevant.

Item 43710-1 relates to "not made" batteries of certain specific types, and their parts, for use in railway signal systems. The goods named in the item, whether or not produced in Canada, are understood to be now obsolete for the end use specified. However, the item is worded:

Copper oxide, zinc, alkaline electrolyte, primary (wet) cell
batteries, of a class or kind not made in Canada, for
railway signal systems; parts of the foregoing

Free	Free	27.5 p.c.	Free	Free
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The M.F.N. rate of Free was bound in the MTN.

In the absence of this item, or when "made", these batteries, and complete parts thereof, would fall under tariff item 44512-1, with a bound rate of 10.2 p.c. Parts, other than complete parts, would be dutiable according to their own material or nature, often as unenumerated manufactures of various materials, also with bound rates of 10.2 p.c. Parts of the "not made" batteries of item 43710-1 are, however, admissible under that item regardless of their own made-in-Canada status.

Although there is no provision in the tariff for railway signal systems as such, there is one further item relating to such systems, namely, tariff item 43715-1. This reads:

Insulated rail joints and connections for use therewith,
used in the construction or repair of railway signal
systems; parts of the foregoing

Free	Free	25 p.c.	Free	Free
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This item is not included in Reference No. 157, but requires some consideration in light of the proposals put forward to the Board. The M.F.N. rate of Free was bound in the MTN.

Imports

Imports under tariff item 43705-1 are quite substantial, having increased from \$12 million in 1979 to more than \$19 million annually in 1980 and 1981. Similarly, imports under non-referred item 43715-1 increased from just under \$3 million in 1979 to almost \$4.5 million annually in 1980 and 1981.

By contrast, imports recorded as entering under tariff item 43710-1 were negligible, and examination of the coding by commodity classes suggests that all, or virtually all, of the imports were coded to the tariff item in error.

Submissions

The Railway Association of Canada (RAC), representing all Canadian railways as well as those U.S. lines operating in Canada, submitted the principal brief received in regard to item 43705-1 for consideration at the group hearing. The details of this proposal, also encompassing referred item 43710-1 and non-referred item 43715-1, are set forth in the pertinent staff appraisal.⁽¹⁾ In summary, the Association proposed: duty-free entry, without regard to availability in Canada, of all equipment for use in railway signal systems; a definition in the Customs Tariff delineating the scope and meaning of a railway signal system; and a new tariff item, which would read: "Railway signal systems and all parts and materials for use therein".

⁽¹⁾ Ibid., pp. 40-1.

In another submission, Saft Batteries Limited of Valleyfield, Que., advised that, when for use in railroad signal systems, the batteries described in tariff item 43710-1 are obsolete, having been replaced by so-called "air-depolarized" batteries. These latter cells do not fall within the description of item 43710-1 and, in any event, are made in Canada.

As part of its brief, RAC submitted a list of parts and materials for railway signal systems which the Association conceded to be manufactured in Canada. This list, which was reproduced in the pertinent staff appraisal,⁽¹⁾ included batteries. Subsequently, in response to the staff appraisal, the Canadian Battery Manufacturers' Association and two individual manufacturers of batteries - namely, Saft Batteries Limited and Gould Manufacturing of Canada Ltd. of Fort Erie, Ont., - declared themselves against the duty-free entry of batteries for railway signal systems, whether or not such batteries are now covered by tariff item 43710-1. Other pertinent goods which, it was claimed, should also be regarded as "made" were brought to the Board's attention by the Chairman of the Railway Transport Committee of the Canadian Transport Commission.⁽²⁾

In its original brief, The Railway Association had stated that, even if free entry were to be granted for all relevant parts and materials, RAC members would continue to follow their normal practice of purchasing goods in Canada, so long as these were available from domestic sources. Subsequently, at the hearing on the staff appraisal, the Association withdrew its request for the inclusion of materials (whether "made or "not made") in the proposed new item, noting that this would remove from eligibility for the item a number of products available in Canada.

(1) Ibid.

(2) The following additions to the list of "made" goods were proposed: electric lighting supplies, insulated switch rods, wire connectors, foundations, battery chargers, electric measuring and testing instruments and meters, tools, electronic carrier systems, snow melting and snow clearing equipment for track switches, and apparatus housings with shelving or signal equipment.

Conclusions and Recommendations

Although all the commodity classes considered most relevant to tariff item 43705-1 are listed in the staff appraisal as applicable to goods of a class or kind not made in Canada,⁽¹⁾ it is obvious from the information submitted to the Board that a variety of parts, materials, tools and accessory equipment for railway signals equipment are, in fact, produced in Canada and, therefore, should be excluded from any replacement for existing item 43705-1. The deletion of the provision for "materials" would eliminate some, but not all, of these goods from further consideration.

The proposal by The Railway Association of Canada for an item providing for entire signals systems would appear to go beyond the Board's terms of reference, as there is currently no such provision in the Customs Tariff. However, as imports of an entire system at one time are understood to be virtually non-existent, it appears that this proposal was probably made to justify a tariff definition of such systems, for the sake of classifying parts. The Board was given to understand that members of the Association had experienced difficulties in the past with the term "railway signals systems" as used in the Customs Tariff. However, it is possible to construct an item for parts incorporating the essential points of the desired definition.

In addition to materials and parts, the lists of products made in Canada put forward by RAC and the Canadian Transport Commission include a number of articles which, although used in the maintenance, installation or protection of railway signals systems, cannot properly be considered to be either parts or materials. These goods include such items as cable splicing kits, padlocks, battery chargers, electric measuring and testing instruments and meters, tools and snow melting and snow clearing equipment. After eliminating these goods, as well as those articles which are clearly materials, such as wire and cable, pole line materials, pipe, electrical tape and paint, there remains a list of parts available from Canadian production

(1) Ibid., p. 40.

which should be excluded from any replacement item. Most of these goods would fall under items where the bound rate would be 10.2 p.c., although a few might be classifiable under items with a bound rate of 9.2 p.c. or 11.3 p.c.

The construction of an eo nomine item limited to "not made" parts would require a structure along the line of "parts ... not including ... (a long list of goods)". It would, therefore, be simpler to create a two-part item, providing a rate of duty on "made" parts and free entry for the balance. As many of the alternate items have bound M.F.N rates of 10.2 p.c., this would appear to be the most suitable rate for "made" goods. Several of the items also have the same rates under the B.P. and M.F.N. Tariffs; this equality should be retained. Rates under the General Tariff vary from 25 p.c. to 37.5 p.c.; the former figure would appear to provide adequate protection. The rate under the G.P.T. would be calculated in accordance with the usual formula. Thus, the replacement for items 43705-1 and 43710-1 might be as follows:

Parts for signals systems by which railroads govern or control the movement and route of rail vehicles, warn of the approach of rail vehicles, detect dangerous conditions on or near the track or on rail vehicles, or determine the identity of passing rail vehicles:

43705-1 Other than the following

Free	Free	25 p.c.	Free	Free
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43705-2	Apparatus housings; Batteries; Bolts, nuts and screws; Bootleg pedestals; Electronic carrier systems; Flashing light crossarms; Foundations; Fuses; Insulated switch rods; Number plates; Pole line type lightning arresters; Power service entrance equipment; Power transformers; Semaphore train order signals; Signal bridges, cantilevers and appurtenances;			
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Signal lamp bulbs;
Signal masts, ladders, mast bases, pinnacles and clamps;
Signs;
Wire connectors;
Wooden gate arms;
Parts of all the foregoing

10.2 p.c. 10.2 p.c. 25 p.c. 6.5 p.c. 10.2 p.c.

While goods falling into existing tariff item 43715-1 might be held to be covered by the proposed new item 43705-1, it would probably be just as well to retain the former provision for the sake of clarity.

CHAPTER 9. MEASURING AND PRECISION INSTRUMENTS,
RECORDING APPARATUS AND CONTROL DEVICES

Introduction

This group encompasses eleven tariff items (including one item referred in part only) embracing a wide variety of meters, gauges and other devices used for measurement, control or recording purposes. In terms of the number of tariff provisions and the value of imports entering thereunder (\$341 million in 1981),⁽¹⁾ this is one of the largest groups of items to be reviewed by the Board in this phase of the reference. Six of the items require that goods classified under them be used for specified end uses. Of these, two items pertain to certain photographic equipment used in the commercial production of animated films and/or motion pictures, two items encompass gas control equipment used in the production of gas water heaters, or in the manufacture or repair of, or conversion to, gas-fired apparatus for cooking, heating water, heating buildings or refrigeration, one item applies to automatic scales for use in Canadian manufactures, and the part-item covers parts for use in the metrification of retail scales. A seventh item, relating to photogrammetric instruments and stereoscopic plotting equipment has an end-use restriction with regard only to the former; this end use, however, is largely descriptive of the principal purposes for which the goods are designed. For the remaining four items, there are no end-use restrictions other than those of a functional kind implicit in the nature of the goods themselves. Thus, in theory at least, the goods imported under these items may, when appropriate, be applied to a broad spectrum of economic activities. In summary, these goods comprise electrical precision instruments and apparatus, geophysical precision instruments and equipment, marine and aircraft compasses and chronometers, and indicating and/or controlling equipment for flame failure protection. All the aforementioned items apply to goods "of a class or kind not made in Canada" or "of types or sizes not made in Canada".

Submissions pertaining specifically to these various tariff provisions, or to individual goods admissible thereunder, were received from 23 parties, including several with an interest in more than one item. Approximately three-fifths of the representations were concerned with products

(1) See Appendix III, infra, pp. 319-20.

classifiable to tariff item 44532-1 ("electrical instruments and apparatus of precision"), which also accounted, on a yearly basis, for over four-fifths of the total value of all imports for the group in 1977-81. On the other hand, the only interest shown in tariff item 43150-1 ("geophysical precision instruments and equipment"), which claimed approximately two-fifths of the remaining imports, was a passing reference by several associations primarily interested in other tariff groups, while item 44315-1 ("automatic pilots ... for use in the manufacture of gas water heaters") attracted no submissions at all. Overall, only a very small segment of the goods eligible for entry under the items comprising this study group were the subject of representations to the Board. In part, this may simply have reflected very limited Canadian production capability in this general area of economic endeavour which, more than most, has undergone rapid technological change in recent years; in part, it may also have been a matter of users and their organizations not identifying very closely with tariff items which, in a number of instances, are not end-user specific.

However, though seemingly belied by the modest size of the response, imports under the 11 aforementioned items were very substantial in 1981, as already mentioned⁽¹⁾, having grown at an average annual rate of 30 per cent during the preceding five years. Thus, there was no sign of the regressive economic influences which have tended to curb the importation of many goods during the past few years. Indeed, between 1980 and 1981 only four of the 11 tariff items constituting this review group registered any decrease in the value of imports, and, of these, three (items 44315-1, 46111-1 and 46218-1) recorded imports in 1980 of less than \$0.5 million.

Tariff Item 43150-1

Existing Tariff Provisions

Geophysical precision instruments and equipment of a class
or kind not made in Canada;

(1) Supra, p. 211.

Parts, attachments, tripods, base plates and fitted cases
for all the foregoing

Free	Free	20 p.c.	Free	Free
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This item was first introduced into the Customs Tariff in 1948 and, while its wording has been greatly shortened over the years, it has always provided free entry for "not made" geophysical precision instruments and equipment. The "not made" requirement, however, does not extend to the parts, attachments, tripods, base plates and fitted cases mentioned in the latter part of the item. Free entry under the M.F.N. Tariff is bound under GATT.

In the absence of this item, or when ruled "made in Canada", the instruments and equipment would generally be classified under tariff item 46200-1, from which this item originally derived. A few goods, however, would probably fall under tariff item 44524-1. The bound rates for these items under the MTN are 7.5 p.c. and 10.2 p.c., respectively.

Imports

Imports classified under the item have increased rapidly in recent years, from \$10.5 million in each of 1978 and 1979 to \$20.2 million in 1980 and \$24.2 million in 1981.

Submissions

Despite the substantial imports, no submissions were received relating specifically to this tariff item, although both the Canadian Association of Oilwell Drilling Contractors and the Canadian Water Well Association mentioned the item as being of interest to their members. In a submission related primarily to equipment used in the oil and gas industries, the Canadian Association of Geophysical Contractors advocated the adoption of the "availability" approach with respect to the types of equipment used by its members.

Conclusions and Recommendation

With regard to the commodity classes categorized in the relevant staff appraisal⁽¹⁾ as being of "uncertain" made-in-Canada status, the Board has been informed that c.c. 709-93-90 ("surveying instruments nes"), probably encompasses some goods which are domestically produced. With regard to c.c. 703-62-12 ("barometer/hydrometer/thermometer combination"), only a very small proportion of total imports coded to this class are entered under item 43150-1, and the class can probably be disregarded.

An anomaly has been drawn to the Board's attention: c.c. 709-94-21 ("seismic instruments") is given a "not made" designation in the staff appraisal, while under c.c. 709-94-90 ("geophysical instruments nes") earthquake detectors, which are certainly seismic instruments, are listed as "made". The designation of c.c. 709-94-21 is, therefore, changed accordingly.

The information available to the Board does not put it in a position to circumscribe either the "made" or "not made" goods in a sound eo nomine nomenclature. The necessary product detail is lacking. However, the balance of evidence seems to indicate that the bulk of the goods encompassed by the existing tariff item are not available from domestic sources. There have been no representations from Canadian manufacturers, while, in recent years, imports of geophysical instruments and equipment (eligible for free entry under tariff item 43150-1) have gained duty-free access mainly under tariff items 49102-1 and 49105-1 in connection with the exploration of oil and natural gas resources.

Accordingly, the Board recommends that tariff item 43150-1 continue to exist in its present form, the words "of a class or kind not made in Canada" being deleted. Thus:

(1) Staff Appraisal. Measuring and Precision Instruments, Recording Apparatus and Control Devices, p. 23.

43150-1 Geophysical precision instruments and equipment, n.o.p.; parts, attachments, tripods, base plates and fitted cases for the foregoing

Free Free 20 p.c. Free Free

Tariff Item 43155-1

Existing Tariff Provisions

Photogrammetric instruments and equipment for use in the interpretation of photographs and in the preparation of maps and plans from photographs, including the following: stereoscopes, binoculars for use with stereoscopes, parallax bars, height finders, contour finders, sketch-masters, slotted template equipment and accessories for use with any of the foregoing; stereoscopic plotting instruments and equipment of either optical-mechanical or projector type, including such accessories as plotting and tracing tables whether electrically, mechanically or remotely operated, optical instruments for preparing diapositive plates, voltage regulators and electrical transformers, cooling systems, lamps, spectacles, filters, height gauges, principal point selectors and other components for use with the foregoing equipment; all the foregoing of a class or kind not made in Canada and parts and fitted cases for any of the foregoing

Free Free 20 p.c. Free Free

This item relates to instruments and equipment used in photogrammetry, the process of making surveys and maps through the use of photographs. The item is divided into two parts, of which the first relates to photogrammetric instruments and equipment (including certain named goods) and accessories, all of which must be for use in the interpretation of photographs and in the preparation of maps and plans from photographs. The second part covers stereoscopic plotting instruments and equipment, and names certain accessories which may be included, but there is no end-use requirement. All of these goods must be "of a class or kind not made in Canada". Parts and fitted cases "for any of the foregoing" are admissible under the item, regardless of their own made-in-Canada status. Free entry under the M.F.N. Tariff was bound in the MTN.

When excluded from this item because they are of a class or kind made in Canada, or, in regard to the first portion of the item, because they are not intended for any of the end uses specified, the goods, with some exceptions, would fall under tariff item 46200-1, with a bound M.F.N. rate of 7.5 p.c. The plotting and tracing tables would fall under item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. In both these cases, the classification of the parts would follow that of the main goods. Fitted cases would fall under item 62300-1, with a bound rate of 11.3 p.c.

Imports

Imports classified under this item amounted to \$1.4 million in 1978, \$2.9 million in 1979, \$3.1 million in 1980 and \$3.8 million in 1981.

Submissions

The only submission relating specifically to tariff item 43155-1 came from Canadian Marconi Company of Montreal, Que., which manufactures analytical stereoplotters. The company imports a large percentage of the required parts under this item and exports much of its production. It advocated retention of free entry so that it could continue to have free access to parts.

The Canadian Association of Oilwell Drilling Contractors and the Canadian Water Well Association both indicated that the item was of interest to their members, but made no specific proposals in relation thereto.

Conclusions and Recommendation

The Board has been given to understand that the photogrammetric processes implied by the detailed wording of the item are now largely obsolete. Photogrammetry and remote sensing are related fields and most equipment now in use is computer controlled. Modern equipment includes: analog instruments outfitted with digitizers or interfaced with minicomputers or microprocessors; analytical instruments and plotters; analog and analytical instruments having

the facility for interactive display and editing; orthophotoprinters; automated analytical instruments; digital image processing equipment; image scanners and printers. The Board has been unable to determine the extent to which such equipment has been classified under tariff item 43155-1.

The Board has learned that, in addition to the Canadian Marconi Company, there are a number of firms in Canada producing items for use in photogrammetry or remote sensing. None of these has made any representations to the Board or has had its products ruled to be of a class or kind made in Canada. It is not unlikely that, like Canadian Marconi, many of these firms depend on imports of parts and are export oriented.

Under the circumstances, and given that virtually all imports coded to the statistical classes relating to photogrammetric instruments and parts now enter under this tariff item, the Board feels able to recommend that free entry be extended to all photogrammetric and remote-sensing equipment. It also suggests deletion of the detailed wording of the existing item, in view of its obsolescence.

Accordingly, the Board recommends that tariff item 43155-1 be replaced by the following:

43155-1 Photogrammetric and remote-sensing instruments and equipment, including plotting equipment; accessories for use with the foregoing; parts and fitted cases for all the foregoing

Free	Free	20 p.c.	Free	Free
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Tariff Item 44028-1

Existing Tariff Provisions

Chronometers and compasses, and parts thereof, including cards therefor, of a class or kind not made in Canada, for ships or aircraft

Free	Free	Free	Free	Free
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The coverage of the item is indicated by its wording. However, chronometers and compasses, otherwise classifiable under item 44028-1, when for civil aircraft, would enter under tariff item 44062-1,⁽¹⁾ which has a M.F.N. rate of Free, bound in accordance with the International Air Agreement, of which Canada is a signatory. Parts are not covered by item 44062-1. In effect, item 44028-1 covers "not made" compasses and chronometers other than those falling under 44062-1 as being "for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of civil aircraft", as well as "not made" parts of all compasses or chronometers for ships or aircraft. Free entry under the M.F.N. Tariff was bound in the MTN.

When not for the uses specified in items 44028-1 and 44062-1, or if of a class or kind made in Canada, compasses and parts thereof are classified under tariff item 46200-1, with a M.F.N. rate of duty bound at 7.5 p.c. The cards are classified under tariff item 18100-1, with a M.F.N. bound rate of 11.3 p.c.

When not for the uses specified, or if of a class or kind made in Canada, chronometers fall under tariff item 36800-1, which has no provision for parts, as such, but does provide for clock movements, clockwork mechanisms and clock cases. Parts of such movements and mechanisms are covered by tariff item 36900-1. The M.F.N. rates of duty for these items have been bound under the MTN at 22.5 p.c. and 8 p.c., respectively.

With regard to goods for civil aircraft, as described above, tariff item 36800-1, as well as tariff item 46200-1 other than for parts, are superseded by item 44062-1.

Imports

Imports under tariff item 44028-1 increased from \$1.2 million in 1978 to \$2.0 million in 1979, \$2.3 million in 1980 and \$3.5 million in 1981.

(1) For the provisions of this item, see Appendix II, infra, pp. 301-2.

Submissions

Litton Systems Canada Limited of Rexdale, Ont., which both manufactures gyromagnetic compasses and imports gyromagnetic compass parts, recommended continuation of the duty-free status presently accorded under the referred item to gyromagnetic compasses and parts thereof. It further proposed that land applications should be brought within the ambit of a replacement item, and suggested adoption of the following nomenclature:

Computer mechanized compass and pointing systems (and parts thereof), for land, sea and airborne applications.

The company indicated that it exports some 90 per cent of its production.

Other submissions opposing the imposition of duty on imported parts were received from two concerns: Canadian Marconi Company of Montreal, Que., (which provides "repair, overhaul and replacement of Anschutz's Gyrocompasses on ships at all Canadian seaports"), and Great Circle Trading Company Limited of Weston, Ont., (which imports and distributes marine equipment for yachts and sailboats).

Conclusions and Recommendation

The Board concludes that chronometers and parts thereof are not produced in Canada. Apart from the compasses made in Canada by Litton Systems Canada Limited, using largely imported parts, there would appear to be no Canadian production of compasses. No information has been placed before the Board suggesting that there is any Canadian production of compass cards or any significant production of compass parts. The sole Canadian producer of goods eligible for entry under this item does not seek any protection; in any case, this firm's production is largely export oriented.

The proposal by Litton Systems Canada Limited relates only to the goods produced by the company, and parts imported by it. It would, however, go beyond the scope of the reference by also covering compasses for land applications.

The evidence suggests that existing item 44028-1 should be continued in its present form, with continued free entry under all Tariffs, but without the clause "of a class or kind not made in Canada". This would remove any protection from the Canadian production of parts, but there is no evidence to suggest that such production is significant. If the aforementioned change were to be made, the references in tariff item 44062-1 to items 36800-1 and 46200-1 would need to be reviewed. The Board is not in a position to comment on this issue.

The new item would be worded:

44028-1 Chronometers and compasses, and parts thereof, including
 cards therefor, for ships or aircraft

Free	Free	Free	Free	Free
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Tariff Item 44315-1

Existing Tariff Provisions

Automatic pilots, thermostatic controls, thermostatically-operated controls, hydrostatically-operated controls and parts of the foregoing, of a class or kind not made in Canada, for use in the manufacture of gas water heaters

1/1/82	Free	3.1 p.c.	30 p.c.	Free	Free
1/1/87		Free			

This item provides for automatic pilots, certain types of controls, and parts thereof, all of which must be "not made", and must be for the manufacture of gas water heaters. Free entry under the M.F.N. Tariff was bound in the MTN.

When excluded from the item because they are "made", or because they are not intended for the use specified, these articles are dutiable according to material, most likely under tariff item 44603-1 or other items having a bound M.F.N. rate of 10.2 p.c.

Imports

Imports under this item have been negligible in recent years, amounting to some \$9,000 in 1978 and \$125,000 in 1980 and to less than \$500 in each of 1979 and 1981.

Submissions

No submissions were received with respect to this tariff item.

Conclusions and Recommendation

As indicated in the pertinent staff appraisal,⁽¹⁾ all the goods classified under item 44315-1, except hydrostatically-operated controls, are produced in Canada.

Accordingly, the Board concludes that the item should be continued, at the existing rates of duty, without the clause "of a class or kind not made in Canada", but limited to hydrostatically-operated controls.

The new wording would be:

44315-1 Hydrostatically-operated controls, and parts thereof, for use in the manufacture of gas water heaters

Free	Free	30 p.c.	Free	Free
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Tariff Item 44320-1

Existing Tariff Provisions

Gas control devices, n.o.p., of a class or kind not made in Canada, for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or for heating buildings, or for heating water, or for

(1) Staff Appraisal, p. 32.

refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device; parts of the foregoing

1/1/82	Free	3.1 p.c.	30 p.c.	Free	Free
1/1/87		Free			

The M.F.N. rate of duty is bound at Free under GATT.

The item was first introduced in 1953 to provide for gas control devices of a class or kind not made in Canada used for certain specified purposes. In 1954 a distinction was drawn between gas pressure regulators and other gas control devices, the former being provided for separately in a new tariff item. The range of specified end uses was also widened at that time and applied to both items. Gas pressure regulators, for the uses mentioned above, are provided for in tariff item 44325-1 at a M.F.N. rate of 5 p.c. without regard to their made-in-Canada status. It will be noted that parts of gas control devices admissible under item 44320-1 also fall under that item regardless of their own made-in-Canada status.

In the absence of item 44320-1, or when excluded therefrom as being "made in Canada", or when not intended for one of the uses specified, gas control devices other than gas pressure regulators would, when qualifying, fall under either item 44300-1, 44300-2, or 44300-3 (encompassing apparatus for cooking, or for heating buildings), which, in 1987, will have M.F.N. bound rates of 11.3 p.c., 12.5 p.c. and 12.5 p.c. respectively. When for other applications, such as heating water, refrigeration, etc., the goods would probably be dutiable according to material at bound rates of 10.2 p.c.

Imports

The value of imports classified under this item has increased substantially in recent years, from \$5.6 million in 1978 and \$7.9 million in 1979 to \$10.1 million in 1980 and \$9.9 million in 1981. This growth may well be related to government programs encouraging conversion from oil-fired apparatus to other sources of energy.

Submissions

Honeywell Limited of Scarborough, Ont., as a manufacturer of gas control valves up to and including 3/4 inch internal pipe size, sought retention of the item without the "not made" qualification, but excluding the goods which it produces. These goods, together with pilot safety devices, whether or not in combination with each other, have been ruled by Revenue Canada, Customs and Excise, to be of a class or kind made in Canada.

Conclusions and Recommendation

Apart from the goods mentioned by Honeywell, and covered by the published ruling, there is no hard evidence of any Canadian production of any of the goods covered by item 44320-1.

In the Board's view, the wording of the existing item should be retained without the clause "of a class or kind not made in Canada" and amended to exclude the goods covered by the published ruling. It would also be necessary to exclude the goods proposed for deletion from item 44315-1,⁽¹⁾ which would otherwise be covered by this item.

The new item would read:

44320-1 Gas control devices, n.o.p., not including automatic pilots, thermostatic controls, thermostatically-operated controls, gas control valves up to and including 3/4 inch (19 mm) internal pipe size, and pilot safety devices whether singly or in combination with the aforementioned gas control valves. The foregoing for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or heating buildings, or for heating water or for refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device; parts of the foregoing

Free

Free

30 p.c.

Free

Free

(1) Supra, p. 221.

Tariff Item 44524-2

Existing Tariff Provisions

Indicating and/or controlling equipment, of a class or kind not made in Canada, for flame failure protection, and complete parts thereof

1/1/82	Free	6.8 p.c.	30 p.c.	Free	5.5 p.c.
1/1/87		5.5 p.c.			

The M.F.N. rate of duty is bound at 5.5 p.c. under GATT.

This is one of six items appearing in the Customs Tariff under the general heading: "Electrical apparatus and complete parts thereof, n.o.p.". It will be noted that complete parts of the goods fall under this item regardless of their own made-in-Canada status. Other parts are dutiable according to material, usually with a bound rate of 10.2 p.c.

If excluded from this item because they are ruled to be of classes or kinds made in Canada, or are not for the end use specified, the goods would revert to the first of the six aforementioned items, i.e., item 44524-1, which reads: "Other than the following". The M.F.N. rate of duty for item 44524-1 is bound at 10.2 p.c.

Imports

Imports classified under this item amounted to \$3.1 million in 1978, \$4.0 million in 1979, \$5.8 million in 1980, and \$5.9 million in 1981.

Submissions

Honeywell Limited, which imports a "family" of flame failure control equipment for use with industrial or commercial boilers and furnaces - viz: ultra-violet, infra-red detectors and flame amplifier modules, and also flame

amplifier modules for converting flame signals to relay output - claimed that (contrary to the designation attached to c.c. 688-59-90 in the relevant staff appraisal)⁽¹⁾ these goods are not made in Canada. In the submission of the company, the aforementioned goods, together with "pressure measuring/controlling instruments" (c.c. 703-75-11), should be designated as "not made" and continue to enjoy preferential tariff treatment.

Conclusions and Recommendation

Although evidence of Canadian production is, in a number of instances, thin and inconclusive, the only goods falling under tariff item 44524-2 which have been definitely reported to the Board as being not made in Canada are those referred to in the Honeywell submission. To these might be added "thermal measuring/controlling instruments nes" (c.c. 703-71-10), whose made-in-Canada status remains "uncertain". The remaining commodity classes listed in connection with this item are judged to be either "made" or of doubtful relevance.

However, the Board is loath to include either c.c. 703-71-10 or 703-75-11 in a listing of "not made" goods. With respect to c.c. 703-71-10, the Board has noted a minimal relationship between this residual commodity class and the tariff item under review. It is also aware of the tariff classification problems implicit in the adoption of broad product descriptions such as those of this commodity class and of c.c. 703-75-11. There is, moreover, the probability that goods now admissible under item 44524-2 and coded to the two aforementioned commodity classes would, if not included in the replacement item, be covered in large degree by the Board's recommendation with respect to tariff item 44532-1,⁽²⁾ and thereby qualify for free entry if not available from Canadian production.

(1) Ibid., p. 37.

(2) See infra, pp. 231-2.

Accordingly, the tariff solution which recommends itself most strongly to the Board would be a rewording of the present item, restricting its application to the aforementioned specifically-named "not made" goods and deleting the "class or kind" proviso therefrom. Thus:

Electrical apparatus and complete parts thereof, n.o.p.:

44524-2	Indicating and/or controlling equipment, and complete parts thereof, for flame failure protection - viz: ultra-violet, infra-red flame detectors; ultra-violet, infra-red flame amplifier modules; flame amplifier modules for converting flame signals to relay output			
	Free	5.5 p.c.	30 p.c.	Free 5.5 p.c.

Tariff Item 44532-1

Existing Tariff Provisions

Electrical instruments and apparatus of precision of a class or kind not made in Canada, viz: Meters or gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, electrolysis, flux, force, frequency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, thrust, synchronism, temperature, time, volts, volume, watts, weight; complete parts thereof

1/1/82	Free	4.7 p.c.	30 p.c.	Free	Free
1/1/87		Free			

This item was introduced in 1937 and, except for an expansion in the list of variables to include thrust and weight, has remained unchanged. The M.F.N. rate is bound under GATT at Free. It will be noted that "complete parts" fall under the item regardless of their own made-in-Canada status. Other parts are dutiable according to material, usually with a bound rate of 10.2 p.c.

In the absence of this item, or when excluded therefrom because they are ruled to be of classes or kinds made in Canada, goods not qualifying for entry under any other end-use provision, would be dutiable under tariff item 44524-1, with a M.F.N. bound rate of 10.2 p.c.

Imports

The broad coverage of tariff item 44532-1, and the buoyant trend of demand for the products entering thereunder, are reflected in the import statistics. These indicate a fourfold increase in the value of imports between 1975 and 1981. In the latter year, goods valued at \$283.5 million were admitted under tariff item 44532-1, this exceeding the value of imports under any other item included in Phase I of Reference No. 157.

Submissions

While there are many 7-digit commodity classes relevant to imports under this tariff item, most of these cover a range of goods, some of which may be produced in Canada and others which may not be so produced. Virtually all of the representations made to the Board in connection with this item, however, either concentrated upon specific individual products, or a narrow spectrum thereof, or expressed a very general standpoint in relation to the tariff item as a whole.

Not surprisingly, submissions falling into the latter category emanated from importers/users seeking to limit the application of any dutiable provisions. Thus, five steel-producing companies - The Algoma Steel Corporation, Limited, Atlas Steels (a division of Rio Algom Limited), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - proposed that an eo nomine listing be created carrying free entry for known "not made" products, with other goods dutiable but subject to a provision for remission of duty when not available in Canada. Although the group did not focus in its written submission upon particular electrical instruments and apparatus of precision, it indicated a

concern about quality control (monitoring and measuring devices) and in this regard made reference to the rapid pace of technological development in the field of electronics. The general position of the steel producers was subsequently supported by Duplate Canada Limited of Toronto, Ont., a manufacturer of automotive windshields, and by Measurex (Canada) Ltd. of Longueuil, Que., a supplier of "very sophisticated electronics systems" to a variety of heavy industries - both of which companies also sought to ensure the inclusion of repair parts under the "not made" or "not available" provisions. Canadian Marconi Company of Montreal, Que., which claimed to "import many of the instruments mentioned under the item", both for use in manufacture and for resale, also sought an eo nomine listing, with duty-free entry for goods not made in Canada. Union Carbide Canada Limited of Toronto, Ont., submitted a list of products imported by the company under this tariff item, but made no specific proposal. Finally, the Canadian Association of Oilwell Drilling Contractors and the Canadian Water Well Association, whose representations for the preferential tariff treatment of "not made" goods used by member firms have already been noted in connection with tariff items reviewed in the earlier parts of this study,⁽¹⁾ also indicated an interest in tariff item 44532-1, but did not elaborate further.

At the more detailed product level, Honeywell Limited of Scarborough, Ont., sought to retain the tariff treatment now afforded under the item for recording oscillographs (visicorders) (c.c. 702-22-11), as did Romark Ltd. of Edmonton, Alta., with respect to surface condition analysers used by airport and highway operations and maintenance departments to give early warning of moisture, frost and ice.

Simplex International Time Equipment Co. Ltd. of Mississauga, Ont., which produces industrial slave secondary clocks using largely imported parts, sought free entry for time control systems and also attendance and job control systems, in an eo nomine item to be worded:

(1) Supra, pp. 54, 96-7.

Electrical instruments and apparatus of precision for indicating and/or recording time, namely: Synchronous wired motor driven, minute impulse, and electronic clocks of the type commonly known as "slave clocks"; secondary clocks, attendance time recorders, attendance and job time recorders, time stamps; ancilliary equipment thereto, and parts of all the foregoing, but not to include non-corrective clocks of the time of day indicating variety.

R. Mabit Inc. of Verchères, Que., sought free entry for transient fault recorders and sequential events recorders imported by the company.

Fisher Scientific Limited of Ottawa, Ont., claimed that precision or laboratory type thermometers are not made in Canada and requested that free entry should be accorded to such goods. In particular, the company claimed that liquid-in-glass, capillary tube type thermometers, designated in the staff appraisal as "made",⁽¹⁾ are merely mounted on wood in Canada, after importation.

Tokyo Electric Canada Ltd. (TEC) of Toronto, Ont., and Burnaby, B.C., claimed that electronic weigh scales are not made in Canada and should be free of duty. Toledo Scale (Division of Reliance Electric Limited) of Mississauga, Ont., took the same basic position. These claims were opposed by City-Wide Scale Co. Ltd. of Rexdale, Ont., which manufactures electronic scales for retail and light industrial purposes, as well as other weighing equipment.⁽²⁾

Apart from City-Wide Scale Co. Ltd., only two Canadian manufacturers came forward in connection with this tariff item in order to seek protection for their products. IRD Mechanalysis Limited, Stoney Creek, Ont., sought the establishment of an eo nomine listing of "made" goods under an "other than the following" dutiable provision, such a listing to include dynamic balancing machines capable of balancing rotors weighing up to 50,000 lb, transducers,

(1) Ibid., p. 44.

(2) See infra, p. 235.

portable analysis and vibration monitors; at the same time, the company requested duty-free entry for parts used in the production of the aforementioned goods in Canada.

Bomem Inc. of Vanier, Que., disputed the "not made" designation accorded to c.c. 707-15-20 ("spectrophotometers and colourimeters") in the pertinent staff appraisal,⁽¹⁾ and sought protection with respect to interferometric spectrophotometers (commonly referred to as "Fourier transform infra-red spectrometers"). The imposition of duties on imported materials was also, apparently, a matter of some concern to this company.

In a submission made in the context of the Board's review of oilfield machinery and apparatus, Harding Instruments Co. Ltd. of Edmonton, Alta., electronic design consultants and manufacturers, requested that a duty be imposed on fluid flow measuring/controlling instruments (c.c. 703-44-90); the company deprecated the fact that, while it pays import duties on electronic components used in the manufacture of its flow meter equipment, this class of equipment, when supplied to the oil industry, is imported duty free [under tariff item 49105-1].

Conclusions and Recommendations

Although some of the grey areas cited in the staff appraisal⁽²⁾ are clarified by the foregoing, and although additional information has been placed before the Board suggesting Canadian production of goods, or additional goods, under commodity classes 634-35-20, 703-44-31, 703-44-90, 703-48-90, 730-69-20, 730-69-23 and 730-69-89 (previously designated as "uncertain" or "not made"),⁽³⁾ there remain a great many unresolved problems that would require much more detailed investigation than can be carried out by the Board with the resources available to it.

(1) Ibid., p. 40.

(2) Ibid., pp. 40-5.

(3) See Appendix IV, infra, pp. 324-38 for a listing of Canadian producers of these classes of goods.

The complexity of this item, the lack of detailed information, and the fact that many relevant commodity class descriptions cover both "made" and "not made" classes or kinds of goods, make it virtually impossible to construct a replacement item limited to goods of a class or kind not made in Canada. In view of the obviously smaller overall product coverage of the "made" categories of goods, a partial eo nomine listing of such goods might be compiled, eliminating those classes and sub-classes of commodities with nebulous or indeterminate descriptions. A basket "n.o.p." provision could be used to accommodate the remaining categories of goods - whether "made", "not made", "uncertain", or "unidentified", as well as any new products coming onto the market - such goods to be unnamed and subject to duty remission when not available from domestic sources.

On a more detailed matter, the Board has noted some conflict between item 44532-1 and item 46115-1, with respect to the measurement of weight.⁽¹⁾ It is, therefore, recommended that the reference to "weight" be deleted from item 44532-1.

It is further recommended that, after this change, item 44532-1 be retained, without the clause "of a class or kind not made in Canada", with rates of duty (in 1987) of 10.2 p.c. under the B.P. and M.F.N. Tariffs, subject to duty remission on goods not available in Canada.

The item would be worded:

Electrical instruments and apparatus of precision - viz:
Meters or gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, electrolysis, flux, force, frequency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, thrust, synchronism, temperature, time, volts, volume, watts; complete parts thereof:

(1) See infra, pp. 234-5, 236.

44532-1 Other than the following

10.2 p.c. 10.2 p.c. 30 p.c. 6.5 p.c. 10.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

44532-2 Alpha-beta geiger counters and geiger-muller counters;
Ceilometers;
Concrete testers;
Diagnostic timing instruments, hand held;
Digital pyrometers, hand held;
Dynamic balancing machines capable of balancing rotors weighing up to 50,000 pounds;
High voltage capacitance bridges;
Instruments, except bridges, for measuring impedance;
Instruments for measuring or detecting nuclear radiation;
Instruments for measuring wind speed or direction;
Interferometric spectrophotometers;
Meters for recording or measuring electricity supply, water current or water supply;
Null meters;
Radars for primary or secondary surveillance by airports;
Resistance bridges;
Sonar and echo sounding equipment;
Temperature bridges;
Temperature measuring devices employing resistance thermal detector sensing elements, 4 1/2 inches square face;
Thickness sensors;
Transducers;
Transmissometers;
Vibration, noise and spike energy measuring instruments, analysers and monitors;
Voltmeters, panel type, 2 1/2 inches, 3 1/2 inches or 4 1/2 inches square face;
Voltmeters, switchboard type, 4 1/2 inches square face;
Wattmeters;
X-ray fluorescence spectrometers;
Parts of all the foregoing

10.2 p.c. 10.2 p.c. 30 p.c. 6.5 p.c. 10.2 p.c.

Tariff Items 46111-1 Ex and 46115-1

Existing Tariff Provisions

These items are linked in that they both relate to scales.

I. Item 46111-1

Parts when of types or sizes not made in Canada and conversion kits for use in the conversion or modification to metric measure of scales used in retail operations and having a maximum weight capacity of one hundred kilograms

Free	Free	35 p.c.	Free	Free
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This temporary tariff item was introduced in 1977, and currently has an expiry date of December 31, 1983. It encompasses certain parts and kits required to convert scales used in retail operations to metric measure. It will be noted that the "conversion kits" fall under item 46111-1 regardless of whether or not they are "of types or sizes not made in Canada". Accordingly, such kits are not a subject of inquiry in the present reference.

While the item is not, in itself, bound under GATT, the goods are covered by the binding affecting the parent item 46110-1, to which they will revert when item 46111-1 expires, or under which they would be classified if held to be of types or sizes made in Canada. Under item 46110-1, which reads "parts of scales, finished or unfinished", the bound rate is 10.2 p.c. However, the applied rate is 10 p.c.

II. Item 46115-1

Automatic scales or weighing machines, of a class or kind not made in Canada, and complete parts of the foregoing, for use in Canadian manufactures

Free	Free	Free	Free	Free
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This item was established by Order in Council in 1945 and was made statutory in 1950. The M.F.N. rate of duty is bound at Free under GATT. The item makes provision for "complete parts", regardless of their own made-in-Canada status. Other parts, however, fall under item 46110-1 at a bound rate of 10.2 p.c., or are dutiable according to their own material or nature.

When excluded from this item because they are ruled to be of classes or kinds made in Canada, or are not for the use specified, the goods revert to the parent item 46105-1, which, among other articles, provides for "scales, balances and weighing beams of all kinds, n.o.p.". The M.F.N. rate of duty for this item was bound at 10.2 p.c. under the MTN. Parts of scales, finished or unfinished, fall under tariff item 46110-1, also bound at 10.2 p.c. Parts of weighing machines, other than scales, would continue to be dutiable according to their nature or material, usually with bound rates of 10.2 p.c.

Imports

Import statistics relating only to that part of item 46111-1 which is of concern to the Board are not available. Imports under the item as a whole amounted to less than \$0.1 million in 1978, but increased to \$0.6 million in 1979, falling to \$0.5 million in 1980 and to just over \$0.1 million in 1981.

Imports under item 46115-1 also peaked in 1979. They were \$5.7 million in 1978, \$8.3 million in 1979, \$7.1 million in 1980 and \$7.4 million in 1981.

Submissions

Some submissions relevant to scales were actually filed with reference to item 44532-1, which covers in part: "Electrical instruments and apparatus of precision, of a class or kind not made in Canada, viz.: Meters or gauges for indicating and/or recording ... weight".

In considering these submissions and the relevant issues, there must also be borne in mind the provisions of items 41013-1 and 41014-1,⁽¹⁾ which cover scales for use with conveyors "of a class or kind made/not made in Canada", under the more general heading of "machinery and apparatus for use in mining, quarrying, the development of mineral deposits or the processing of ores, metals or minerals".

In a submission encompassing not only tariff items 46111-1 Ex. and 46115-1 but also item 44532-1,⁽²⁾ City-Wide Scale Co. Ltd. of Rexdale, Ont., claimed that it manufactures various types of weighing and measuring devices, for which it seeks tariff protection. The company also indicated that it makes conversion kits containing some imported "not made" parts. Milltronics Ltd. of Peterborough, Ont., informed the Board that it manufactures conveyor scales and parts thereof "covered under tariff item 46115-1", and it confirmed the made-in-Canada status assigned to these goods in the relevant staff appraisal.⁽³⁾

Howe Richardson Scale Company of Canada Ltd., which has manufacturing facilities at Pointe Claire, Que., speaking as a producer of industrial and vehicular weighing equipment and as an importer of automatic weighing equipment, proposed that, "in view of the ... constant change in technology of automatic weighing equipment", the nomenclature of existing item 46115-1 should be retained in general terms "rather than being specific related to goods and products in existence today". However, the company considered that goods known to be made in Canada should be specifically excluded from the item, the existing "not made" clause also being deleted. In putting forward a modified version of the present item, the company further submitted that, with respect to end-use applicability, the words "Canadian manufactures" should be dropped in favour of "Canadian producers", in order to broaden the scope of the provision to cover such industries as farming and fishing.

(1) See supra, p. 63.

(2) See supra, p. 229.

(3) Staff Appraisal, p. 52.

In a general submission directed at tariff items 44532-1 and 46115-1, a group of steel producers - The Algoma Steel Corporation, Limited, Atlas Steels (a division of Rio Algom Limited), Dofasco Inc., Sydney Steel Corporation and Stelco Inc. - advocated providing for the known "not made" goods in an eo nomine duty-free tariff item; and secondly, establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Other representations directed more specifically at electrical precision weighing equipment are cited under tariff item 44532-1.⁽¹⁾

Conclusions and Recommendations

Because of the conflicting nature of some of the evidence, the Board's staff undertook further investigation, which led to the conclusion that virtually all types of scales and weighing equipment are available from Canadian production.

Conversion kits are not at issue in this reference. Some parts for conversion kits are known to be made, others are imported. In any case, item 46111-1 is a temporary provision related to the on-going process of metric conversion.

In view of the nature and coverage of tariff item 46111-1, the Board recommends that it be renewed, from time to time, at current rates of duty, until the Metric Commission advises that the metric conversion process is sufficiently advanced for the item to be no longer required.

With reference to item 46115-1, in view of the conclusion that virtually all types of scales are available from Canadian production, the Board recommends that this item be abolished.

(1) Supra, pp. 227-30.

Tariff Items 46218-1 and 46246-1

Existing Tariff Provisions

Both of these items relate to the commercial films industry.

I. Item 46218-1

Cameras and animation stands, of a class or kind not made in Canada, for use in the commercial production of animated films; parts of the foregoing

Free	Free	30 p.c.	Free	Free
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This item is bound at Free under the M.F.N. Tariff. It was introduced in 1977, and encompasses certain "not made" goods, previously classified under former item 46210-1, item 46200-1 and item 42700-1, for use in the commercial production of animated films. It will be noted that parts are admissible under the item, regardless of whether or not they are themselves of a class or kind not made in Canada.

When excluded from item 46218-1 because they are ruled to be of classes or kinds made in Canada, or are not for the use specified, the cameras are classified under tariff item 46205-1 ("cameras, n.o.p."), with a bound rate of 7.5 p.c. under the M.F.N. Tariff. However, only complete parts are admissible under this latter item. Parts not ready for use in the condition imported would be classified according to their nature or material, usually under items having bound rates of 10.2 p.c. Animation stands are usually mechanical in nature and are classified as "machines" under tariff item 42700-1, with a bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program. The stands, if non-mechanical, would probably fall under tariff item 46200-1, which has a M.F.N. rate of 7.5 p.c., bound under GATT. These items also cover parts.

II. Item 46246-1

Cinematograph and motion picture cameras and camera blimps; optical and magnetic sound equipment; dollies, or other mobile mounting units for motion picture cameras; booms, without wiring, for use with microphones; editing equipment, namely: film editing machines, film splicers, film synchronizers, film viewers, rewinds; parts of the foregoing;

All of the foregoing when of a class or kind not made in Canada, for use in the commercial production of motion pictures or animated films

Free	Free	30 p.c.	Free	Free
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This item was introduced in 1977 for the benefit of the Canadian motion picture industry and provides for a variety of film-making equipment. The M.F.N. rate of duty has now been bound at Free under GATT. It will be noted that, to be admissible under this item, parts must themselves be "of a class or kind not made in Canada".

This item parallels tariff items 46220-1 and 46245-1, which cover exactly the same goods, without any "not made" qualification, but with a more restrictive end use:

Item 46220-1

Cinematograph and motion picture cameras and camera blimps for use by professional motion picture producers having studios in Canada equipped for motion picture production; parts of the foregoing

Free	Free	15 p.c.	Free	Free
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Item 46245-1

Optical and magnetic sound equipment;
Dollies, or other mobile mounting units for motion picture cameras;
Booms, without wiring, for use with microphones;
Motion picture editing equipment, namely: film editing machines, film splicers, film synchronizers, film viewers, rewinds;
Parts of the foregoing;

All the foregoing when for use in the production of motion pictures by professional producers having studios in Canada equipped for motion picture production

Free	Free	15 p.c.	Free	Free
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In both cases, free entry under the M.F.N. Tariff is bound under GATT.

When items 46220-1 and 46245-1 were originally introduced, motion picture production in Canada was largely limited to fully-equipped studios with their own cameras, sound equipment, editing equipment, etc. These tariff items were then adequate to cover normal commercial needs. However, as the motion picture industry developed, films came to be made more and more on location, by free-lance producers, often using rented equipment and then contracting out the sound processing to sound houses and the editing to firms specializing in that aspect of the industry. Item 46246-1 appears to have been introduced to meet these developments. It will be noted that the end uses applying to item 46246-1 are broad enough to encompass the requirements of items 46220-1 and 46245-1, even taking into account the recognition of commercial television stations as being involved "in the production of motion pictures by professional producers having studios in Canada equipped for motion picture production", and the consequent inclusion of video tape recorders and reproducers as "magnetic sound equipment".

When excluded from the above three items because they are ruled to be of classes or kinds made in Canada, or are not for the uses specified, the goods would fall under various tariff items, all of which have been bound under GATT. Goods classifiable under item 46246-1, but not qualifying for entry under items 46220-1 and 46245-1, would also revert to these items if item 46246-1 should be eliminated. The alternative classifications of the goods and the applicable bound rates of duty are as follows:

cinematograph cameras		
motion picture cameras	46205-1	7.5 p.c.
camera blimps		
optical sound equipment		

film editing machines		
film splicers		
film synchronizers		
film viewers		
rewinds	46200-1	7.5 p.c.
magnetic sound equipment	44538-1	8 p.c.
dollies, mechanical	42700-1	9.2 p.c.(a)
dollies, non-mechanical	according	
	to material	10.2 p.c.(b)
mobile mounting units	43803-1	9.2 p.c.
booms, without wiring	according	
	to material	10.2 p.c.(b)

(a) Subject to the Machinery Duty Remission Program.

(b) Usually at this rate.

Imports

Imports under both of these items, while remaining comparatively small, have shown an upward trend:

<u>Item</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
	- \$'000 -			
46218-1	31	47	398	379
46246-1	526	1,074	1,822	2,213

Submissions

Written submissions were received from the Canadian Recording Industry Association (representing sound recording studios, and producers and distributors of records and tapes), Ward-Beck Systems Ltd. of Scarborough, Ont., (which manufactures sound recording equipment in Canada), Imax Systems Corporation of Toronto, Ont., (which produces motion picture equipment), and the Canadian Film & Television Association (whose membership includes "production companies, commercial houses, animation studios, audio visual specialists, laboratories, optical houses, video tape and sound recording studios, post production facilities, distributors and suppliers to the industry"). In addition, because of a conflict of views between the Canadian

Recording Industry Association and Ward-Beck Systems Ltd.,⁽¹⁾ a special meeting was held in Toronto, at which these and other interested parties were present. At that meeting, verbal representations were made by spokesmen for associations representing producers of animated films and producers of slide films.

In the submission put forward by the Canadian Recording Industry Association it was pointed out that studios engaged solely in the professional production of sound recordings have been unable to obtain the duty concessions (available under tariff item 46246-1 and, in some instances, 46245-1) to sound studios associated with the commercial production of motion picture films. The Association further submitted that equipment required by technologically progressive, "state-of-the-art" studios, working to exacting international standards, is not made in Canada, digital recording equipment being especially cited in this regard. Moreover, not all such equipment could properly be considered to be "magnetic sound equipment", as specified in the nomenclature of tariff item 46246-1. In the Association's view, "without relief from current duties payable, the cost of importing such equipment ... will seriously inhibit its spread to this country", to the detriment of the whole Canadian recording industry.

In the light of these considerations, the CRIA proposed expanding the ambit of item 46246-1 to include a broader range of specific equipment used in the process of sound recording, and extending the provisions of this item to embrace the phonograph record production industry. As an alternative to the foregoing, the Association proposed the creation of a new duty-free tariff item with the following nomenclature:

Mixing consoles, tape recorders, noise reduction devices, power amplifiers and pre-amplifiers, monitor speakers and headphones, echo and reverberation devices, compressors, harmonizers, vocal stressers, equalizers, digital delay devices, effects modules, time modulators, microphones and microphone stands, cables, harnesses, patch-cords,

(1) See infra, p. 242.

splicing blocks, timers, tapes, oscilloscopes and auditory testing equipment, other signal processing equipment, metronomes, bulk tape degauzers, turntables, cartridges.

All of the foregoing for use in professional sound recording studios.

At the public hearing, in response to the representations made by the Canadian Recording Industry Association (see above), Ward-Beck Systems Ltd. stated that it manufactures sound recording equipment, which it has sold to the broadcast industry, both radio and television, in Canada and the United States. The company claimed that:

... in a great number of cases the equipment manufactured by us in Canada would be perfectly acceptable to the sound recording industry and that the removal of import duties on competitive products manufactured outside Canada would be potentially harmful to Ward-Beck Systems Limited and to McCurdy Radio Industries Limited by increasing the proportion of this business being placed outside Canada.

Subsequent to the public hearing, at the aforementioned meeting between interested parties in Toronto,⁽¹⁾ consensus was obtained on a definition of sound recording equipment which would have the effect of limiting the application of any new tariff item to goods clearly not available from Canadian production. The agreed definition reads:

Magnetic and digital sound equipment, namely: automated digital or analog sound mixing consoles incorporating micro-processor or micro-computer control systems; tape recorders; booms, without wiring; signal processing equipment not to include compressors or equalizers; parts of all the foregoing;

All the foregoing for use in the production of motion pictures, video tape, single and multi-image slide productions, or the production of commercial sound recordings.

The principal purpose of the Canadian Film & Television Association's submission (as originally made to the Minister of State, Finance) was to obtain a broadening in the administrative interpretation of the end-use

(1) See supra, pp. 240-1.

applications of tariff items 46220-1, 46245-1 and 46246-1 in order that film equipment imported for use by producers of video tapes and slides might qualify for duty-free entry thereunder as being "for use in the commercial production of motion pictures or animated films". The Board understands that, subsequent to the Association's representations, the Minister of National Revenue now recognizes video tape productions as motion pictures for purposes of tariff item 46246-1, thereby extending the application of the principle whereby video tape recorders have long been held to be "optical and magnetic sound equipment" within the context of tariff item 46245-1, when imported by those television stations which have their own studios equipped for motion picture production.⁽¹⁾

In addition to its request for equality of treatment in this regard, the CFTA also proposed that the various pertinent tariff provisions should be consolidated under tariff item 46246-1 and that this item "should be reworded to reflect changes in the present state of the art in the visual images industry".

In this connection, the Association subsequently submitted to the Board a list of the items of equipment used in the production of films on video tape, with definitions thereof, which it seeks to have included in a revised item. This list is reproduced below:

Cameras: Colour video cameras and control units with digital or electronic capabilities to create colour images used in professional production.

Camera viewfinders: Small monitors integrated into camera system to view lens image.

Magnetic sound equipment: Magnetic record/playback machines capable of interlocking 1/4-inch, 1/2-inch, 1-inch, 2-inch, 16mm or 35mm magnetic with video recorders, and related equipment to carry out same.

Dollies: Hydraulic (or similar) camera pedestal mounting units for cameras. Can be power or manually driven.

Booms: Raised, mobile microphone supporting platforms and adjustable forms.

(1) Tariff Board, Reference No. 147. Photographic Equipment (1974), pp. 208-10.

Switching and special effects equipment: Electronic and digital equipment capable of creating optical/electronic effects of any shape, in any direction, at any speed.

Video recorders: Electronic or digital recording devices for recording video images for subsequent use.

Film to tape converters: Electronic or digital equipment to transfer images from film to video - live or for recording.

Editing systems: Electronic or digital signals from any source transmitted to one or more video recorders.

Monitors: High quality colour video reference units to check stability of image, its chroma and hue, and for matching different video camera sources (to create consistent image), to be used as quality control in professional production.

Given the existing wording of item 46246-1, it is difficult to envisage its being interpreted as applicable, without amendment, to all the foregoing equipment.

The verbal representations on behalf of the producers of animated films and slide films pointed out that the cameras used in these fields are not produced in Canada and that, in addition, both these branches of the film industry use much of the equipment required to make conventional motion pictures, as well as certain types of equipment specialized to each branch. It was noted that it is now possible to produce and exhibit slide films which give the impression of being motion picture films. The producers of animated films agreed that there might be some Canadian production of animation stands but claimed that this is only a small part of the demand. No written submissions expanding upon these positions have been received.

Finally, as a Canadian producer of motion picture equipment, with an interest in the export field, Imax Systems Corporation of Toronto, Ont., supplied a post-hearing statement to the effect that it would have no objection to the deletion of the words "of a class or kind not made in Canada" from tariff item 46246-1.

Conclusions and Recommendation

In reviewing the tariff items under reference, with respect to equipment already named explicitly or implicitly in either of them, the Board has had to address the issue of whether or not equality of treatment should be

accorded to producers of motion pictures, producers of animated or slide films using conventional film, producers using video tape as the recording medium, and producers using the sound equipment of motion picture-making in the production of commercial sound recordings.

It has also had to consider whether it would be appropriate to extend the coverage of item 46246-1, which is now oriented to the production of conventional motion picture films, to include specialized equipment used in the other fields of production under review.

A further matter has been the drafting of wording so as to exclude equipment understood to be available from Canadian production. Any such exclusions would raise the question of whether items 46220-1 and 46245-1 should be incorporated into the new item, as this would deprive those now entitled to use these items of free access to goods excluded from the new item; on the other hand, it could make available to them, at least more explicitly, free access to any goods added to the new item.

After reviewing these issues, the Board is of the opinion that all the producers concerned should be placed on an equal footing with respect to goods admitted free of duty; with limited exceptions, however, it is reluctant, in the absence of a more detailed study than has been possible under this reference, to extend the coverage of the relevant tariff provisions to encompass additional goods.

With respect to the made-in-Canada status of goods presently encompassed by tariff items 46218-1 and 46246-1, the Board has confirmed that 70mm motion picture cameras and animation stands are produced in Canada; it has, however, been unable to confirm the production of animation cameras, and withdraws the provisional classification of such cameras as "made".⁽¹⁾ The Canadian manufacturer of 70 mm cameras has, however, indicated to the Board that protection for such goods is not sought at this time, particularly if free entry for the cameras is accompanied by free entry of parts for manufacturing such cameras.

(1) Staff Appraisal, p. 58.

With some modifications, the Board accepts the definition of sound recording equipment, as agreed by the interested parties.

Therefore, the Board recommends the replacement of tariff items 46218-1, 46220-1, 46245-1 and 46246-1 with a new item worded:

46245-1 Cameras, cinematograph and motion picture cameras and video cameras;
View-finders for use with the foregoing cameras;
Camera blimps;
Dollies or other mobile mounts for cameras, cinematograph and motion picture cameras or video cameras;
Booms, without wiring, for use with microphones;
Film or video tape editing equipment, namely: editing machines, splicers, synchronizers, viewers, rewinds or combinations of any of these;
Optical sound equipment;
Magnetic and digital sound equipment, namely: automated digital or analog sound mixing consoles incorporating micro-processor or micro-computer control systems; tape recorders including video tape recorders; signal processing equipment not to include compressors or equalizers;
Parts of all the foregoing;

All the foregoing for use in the commercial production of series of images, with or without sound, giving the illusion of motion, on conventional still or motion picture film or on video tape, or of sound recordings

Free	Free	22.5 p.c.	Free	Free
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At the present time, under all four items, free entry is accorded to goods from the U.K. and Ireland, and to goods entering under the B.P., M.F.N. and G.P. Tariffs. Under the non-referred items, the General rate is 15 p.c., while it is 30 p.c. under the referred items. Given the paucity of imports under the General Tariff (none was recorded under any of the items in the four calendar years 1978 to 1981 inclusive), it is recommended that the existing rates applying thereunder be averaged and the new rate set at 22.5 p.c.

CHAPTER 10. SUMMARY OF RECOMMENDATIONS

The Board's recommendations, arising out of this reference, have been set forth in the appropriate places in Chapters 4 to 9. In this chapter, they are brought together, for ease of reference, in conjunction with certain additional information, including tables illustrating the relationships between existing tariff items recommended for amendment or deletion and the new items recommended by the Board. Also included are the recommendations made in the Board's earlier interim report on Reference No. 157.⁽¹⁾

For many of the items included in, or related to, the reference - and consequently, for many of the Board's recommended items - staged reductions in duties are taking place in accordance with the obligations assumed by Canada in the "Tokyo Round" of Multilateral Trade Negotiations. In Chapters 4 to 9, the only rates given are those expected to be in, or come into, effect at the beginning of 1987. In this chapter, rates for 1983, where different from those in 1987, are also given.

With respect to the rates for 1987, the Board is aware that the statutory authority for the General Preferential Tariff (G.P.T.) expires on June 30, 1984. Without pre-judging the merits of the question, the Board has assumed, for purposes of this report, that this Tariff will be renewed and that rates will be calculated under the same rules as apply at present. Further, the Board notes that the rates under the tariff column applicable to the U.K. and Ireland will be identical with those under the M.F.N. Tariff from January 1, 1987, and this column is then likely to disappear. It is included here for ease of reference.

Seven of the items referred to the Board in whole or in part, as well as one non-referred item for which changes are proposed, are temporary items created under the Customs Tariff Reduction Regulations (P.C. 1971-1402, July 13, 1971, as amended). For referred items 42765-1, 42875-1, 43864-1 and 46111-1, as well as non-referred item 42830-1, the actions proposed by the

(1) See Appendix VI, infra, pp. 347-59.

Board could be effected under the authority of the said Regulations; this would involve Recommendation 1⁽¹⁾, as well as recommended items 42765-1, 42766-1, 42875-1, 43820-1, 43864-1 and 43864-2 in Schedule II to the second recommendation. The recommended replacements for referred temporary items 42865-1, 42880-1 and 42885-1 require statutory action in whole or in part.

Three lists of existing tariff items are set out in Table 2, below. The first list comprises 53 tariff items referred to the Board in toto and seven items included in the reference insofar as they partially cover goods qualified by a "not made in Canada" description. The second list addresses the non-referred portions of the latter seven items. In the third list, there appear ten non-referred items for which consequential changes or deletions are recommended by the Board. Opposite each item, or items, is indicated the recommended item(s) to which goods covered by the existing provisions would most generally go, or other action proposed by the Board.

TABLE 2. DISPOSITION OF EXISTING TARIFF ITEMS

<u>EXISTING ITEMS</u>	<u>RECOMMENDED ITEMS OR ACTION RECOMMENDED</u>
(a) <u>Referred Items or Parts of Items</u>	
19755-1	19755-1
28105-1	28100-1
38002-1	Deletion
38003-1	Deletion
41001-1/41002-1	41001-1, 41001-2
41012-1 Ex.	Deletion
41013-1/41014-1	41013-1, 41013-2, 41014-1
	41047-1, 41047-3
41021-1 Ex.	Deletion
41022-1/41023-1	41022-1, 41022-2, 41047-1, 41047-3
41026-1/41027-1	41026-1, 41047-1, 41047-3
41031-1/41032-1	41031-1, 41047-1, 41047-3
41305-1	41305-1, 41305-2
41700-1	Deletion
42000-1	42000-1, 42000-2
42100-1	42100-1
42600-1	42600-1
42761-1/42762-1	42761-1, 42761-2
42765-1 Ex.	42765-1

(1) Infra, p. 254.

EXISTING ITEMS
(a) Referred Items or Parts of Items (cont.)

42865-1
42875-1
42880-1 Ex.
42885-1
43150-1
43155-1
43425-1 Ex.
43505-1
43510-1
43705-1/43710-1
43864-1 Ex.
44025-1
44028-1
44125-1
44210-1
44315-1
44320-1
44524-2
44530-1
44532-1
44725-1
46111-1 Ex.
46115-1
46218-1
46246-1
47825-1/47826-1
49104-1/49105-1

49201-1/49202-1

49210-1/49211-1
49215-1/49216-1

RECOMMENDED ITEMS OR
ACTION RECOMMENDED

42816-1, 42865-1
42875-1
42816-1
42816-1
43150-1
43155-1
Deletion
42816-1, 43505-1
42816-1, 43510-1
43705-1, 43705-2
43864-2
42816-1
44028-1
44125-1
44210-1
44315-1
44320-1
44524-2
44530-1
44532-1, 44532-2
44725-1, 44726-1
Temporary Continuation
Deletion
46245-1
46245-1
47825-1
41047-1, 41047-3, 49104-1,
49104-2
41047-2, 41047-3, 49201-1,
49202-1
41047-1, 41047-3, 49210-1
41047-2, 41047-3, 49215-1,
49215-2, 49216-1

(b) Non-referred Parts of Referred Items

41012-1
41021-1
42765-1
42880-1
43425-1
43864-1
46111-1

41012-1, 41014-1
41021-1
42765-1
42880-1
Deletion
43864-1
Temporary Continuation

<u>EXISTING ITEMS</u>	<u>RECOMMENDED ITEMS OR ACTION RECOMMENDED</u>
(c) <u>Non-referred Items Deleted or Wording Altered</u>	
28100-1	28100-1, 28101-1
28110-1	28100-1, 28101-1
28220-1	28115-1, 28220-1
42815-1, 42816-1, 42817-1	42815-1, 42816-1
42830-1	42766-1, 42830-1
43405-1	43405-1
46220-1	46245-1
46245-1	46245-1

It should be noted that correspondence in actual or potential coverage between existing items and recommended items cannot be assumed and, in fact, apart from temporary tariff item 46111-1, for which temporary continuance without change is recommended, would be rare. In addition to those goods now covered by tariff items recommended for deletion without replacement, some goods now falling under tariff items to be amended would not fall under the replacement items but would revert to classifications under non-referred items elsewhere in the Customs Tariff. Further, a number of the recommended items have broader coverage than the items they replace and would draw goods from non-referred items. Non-referred items are listed in Tables 2 and 3 only when some consequential change in wording is proposed.

Attention is drawn, in particular, to the relationships between the following:

<u>Existing Items</u>	<u>Recommended Items</u>
41305-1	41305-1, 41305-2
42000-1	42000-1, 42000-2
43705-1, 43710-1	43705-1, 43705-2
44532-1	44532-1, 44532-2
44725-1	44725-1, 44726-1

In each of these cases, the existing items cover only goods "of a class or kind not made in Canada". However, the replacement items cover not only all, or nearly all, of the goods now under the referred items, but also similar goods now excluded from the items because they are of a class or kind made in Canada. In these cases, the Board has sought to derive rates for "made" goods

from the items now usually applicable to such goods, while retaining the existing rates, either through statutory action or the use of an "availability" clause, for "not made" goods.

Table 3 lists the Board's recommended items, and opposite each of them sets forth the existing items included in Table 2 to which they relate, as well as the existing items from which the rate recommendations are derived. The following points should be noted:

Existing items relating to recommended tariff item 41047-1, pertaining to general-purpose goods, are indicated in the table. The 1987 MFN rate proposed for this new item is that which would apply under all these existing items. The 1983 rate is that which would be applicable under all items except 49104-1, which has lower rates for 1983, 1984 and 1985 than the other items involved. This may require a temporary sub-division of the recommended item into:

41047-1 Other than the following ...
(rates as shown)

41047-2 Other than the following, when otherwise classifiable under tariff item 49104-1 ...

1983 M.F.N. rate of 10 p.c., (other rates as shown)

Recommended items 41047-2 and 41047-3 would then be renumbered as 41047-3 and 41047-4.

As set forth in the interim report, recommended tariff item 28115-1 would derive goods from four different existing tariff items, but would require a change in wording for only one of these items. The methodological basis for the rate determination will be found in the interim report.

The inclusion or exclusion of pistols from recommended item 44125-1 is an unresolved question since, although they are undoubtedly firearms of a class or kind not made in Canada, their classification in existing tariff item 44125-1 is in dispute. The Tariff Board ruled them eligible for classification under the said item in its decision, dated February 16, 1981, on Appeal No. 1432. This decision is under appeal to the Federal Court.

TABLE 3. RECOMMENDED ITEMS RELATED TO EXISTING TARIFF

RECOMMENDED ITEMS	ITEMS REPLACED IN WHOLE OR IN PART	ITEMS FROM WHICH MFN RATES DERIVED
19755-1	19755-1	19755-1
28100-1	28100-1, 28105-1, 28110-1	28100-1, 28105-1
28101-1	28100-1, 28110-1	28110-1
28115-1	28220-1 ^(a)	(a)
28220-1	28220-1	28220-1
41001-1/41001-2	41001-1, 41002-1	41001-1 ^(b)
41012-1	41012-1	41012-1
41013-1/41013-2	41013-1, 41014-1	41013-1 ^(b)
41014-1	(c)	41013-1
41021-1	41021-1	41021-1
41022-1/41022-2	41022-1, 41023-1	41022-1 ^(b)
41026-1	41026-1, 41027-1	41026-1
41031-1	41031-1, 41032-1	41031-1
41047-1	41013-1, 41022-1, 41026-1, 41031-1, 49104-1, 49210-1	(d)
41047-2	49201-1, 49215-1	49201-1, 49215-1
41047-3	41014-1, 41023-1, 41027-1, 41032-1, 49105-1, 49202-1, 49211-1, 49216-1	41014-1, 41023-1, 41027-1, 41032-1, 49105-1, 49202-1, 49211-1, 49216-1
41305-1	41305-1	41305-1
41305-2	(e)	42700-1
42000-1	42000-1	42000-1
42000-2	(e)	42700-1
42100-1	42100-1	42100-1
42600-1	42600-1	42600-1
42761-1	42761-1	42761-1
42761-2	42762-1	42762-1
42765-1	42765-1	42765-1
42766-1	42830-1	42830-1
42815-1	42815-1	42815-1
42816-1	42816-1, 42817-1	42865-1, 42880-1
	42865-1, 42880-1	42885-1, 44025-1
	42885-1, 44025-1	
42830-1	42830-1	42830-1
42865-1	42865-1	42865-1
42875-1	42875-1	42875-1
42880-1	42880-1	42880-1
43150-1	43150-1	43150-1
43155-1	43155-1	43155-1
43405-1	43405-1	43405-1
43505-1	43505-1	43505-1
43510-1	43510-1	43510-1

<u>RECOMMENDED ITEMS</u>	<u>ITEMS REPLACED IN WHOLE OR IN PART</u>	<u>ITEMS FROM WHICH MFN RATES DERIVED</u>
43705-1	43705-1, 43710-1	43705-1, 43710-1
43705-2	(e)	44603-1 <u>et al.</u>
43864-1	43864-1	43864-1
43864-2	43864-1	43864-1
44028-1	44028-1	44028-1
44125-1 (f)	44125-1	44125-1
44210-1	44210-1	44210-1
44315-1	44315-1	44315-1
44320-1	44320-1	44320-1
44524-2	44524-2	44524-2
44530-1	44530-1	44530-1
44532-1	44532-1	44524-1 (g)
44532-2	(e)	44524-1
44725-1	(e)	44603-1
44726-1	44725-1	44725-1
46245-1	46218-1, 46220-1,	46218-1, 46220-1,
	46245-1, 46246-1	46245-1, 46246-1
47825-1	47825-1, 47826-1	47825-1 (g)
49104-1/49104-2	49104-1, 49105-1	49104-1 (b)
49201-1	49201-1	49201-1
49202-1	49202-1	49202-1
49210-1	49210-1, 49211-1	49210-1 (g)
49215-1	49215-1, 49216-1	49215-1 (g)
49215-2	49216-1	49216-1
49216-1	(h)	49215-1

(a) See supra, p. 251, for further explanation.

(b) Subject to remission of duty for goods in "-2" item.

(c) Goods derived from items 41013-1, 41014-1 and non-referred portion of 41012-1, none of which require consequential changes in nomenclature.

(d) See supra, p. 251, for discussion of rates in 1983-85.

(e) See supra, p. 250, for further explanation.

(f) See supra, p. 251, for explanation of "(pistols)".

(g) Subject to remission of duty on non-available goods.

(h) Goods derived from items 49215-1, 49216-1 and (non-referred) 49217-1, none of which require consequential changes in nomenclature.

The Board's actual recommendations with respect to Phase I of Reference No. 157 are set out below. It will be noted that Schedules I and II include both statutory and temporary tariff items. In Schedule II, each item has been assigned a number, for purpose of cross-reference. The relevant chapter in the main body of the text is also indicated with respect to each item, or group of items. Under the recommended nomenclature, the rates of duty set forth, reading from left to right, pertain respectively to the British Preferential, Most-Favoured-Nation, General, General Preferential and U.K. and Ireland Tariffs.

Therefore, subject to the necessity or desirability of further amendments to recommended items 41047-1 and 44125-1, the Board recommends as follows:

1. That tariff item 46111-1 as set forth in the Customs Duty Reduction Regulations (Order in Council P.C. 1971-1402, of July 13, 1971, as amended), be continued from time to time, as appropriate, without change, until such time as the Metric Commission shall advise that the item is no longer required.
2. That Schedule "A" to the Customs Tariff be amended by striking out the tariff items enumerated in Schedule I below and the enumeration of goods and rates of duty set opposite each of these items and by inserting in Schedule "A" to the said Act the items, enumeration of goods and rates of duties specified in Schedule II below.

SCHEDULE I

19755-1,	28100-1,	28105-1,	28110-1,	28220-1,	38002-1,	38003-1,	41001-1,
41002-1,	41012-1,	41013-1,	41014-1,	41021-1,	41022-1,	41023-1,	41026-1,
41027-1,	41031-1,	41032-1,	41305-1,	41700-1,	42000-1,	42100-1,	42600-1,
42761-1,	42762-1,	42765-1,	42815-1,	42816-1,	42817-1,	42830-1,	42865-1,
42875-1,	42880-1,	42885-1,	43150-1,	43155-1,	43405-1,	43425-1,	43505-1,
43510-1,	43705-1,	43710-1,	43864-1,	44025-1,	44028-1,	44125-1,	44210-1,
44315-1,	44320-1,	44524-2,	44530-1,	44532-1,	44725-1,	46115-1,	46218-1,
46220-1,	46245-1,	46246-1,	47825-1,	47826-1,	49104-1,	49105-1,	49201-1,
49202-1,	49210-1,	49211-1,	49215-1,	and 49216-1.			

SCHEDULE II

19755-1 Paper or fibreboard, decorated or not, not including glassine, for use only in the manufacture of goods described in headings 93901 to 93905 ...

Free Free 25 p.c. Free Free

(Chapter 6)

Rigid refractories (firebrick) of any shape, size or composition:

28100-1 Other than the following ...

Free Free 15 p.c. Free Free

28101-1 Products containing not less than 85 per cent of carbon or graphite ...

1/1/83 5 p.c. 8.4 p.c. 22.5 p.c. 5 p.c. 6.8 p.c.

1/1/87 5 p.c. 6.8 p.c. 22.5 p.c. 4.5 p.c. 6.8 p.c.

(Chapter 6)

28115-1 Refractory and heat insulating mortars, ramming and gunning mixes, castables, plastic refractories and ceramic fibres in the form of batts, blankets, boards or cloth; all the foregoing for use in the construction or repair of furnaces, boilers, incinerators, kilns or other heat-resistant, abrasion-resistant or corrosion-resistant enclosures, equipment or structures ...

1/1/83 10 p.c. 10 p.c. 22.5 p.c. 6.5 p.c. 10 p.c.

1/1/87 8 p.c. 8 p.c. 22.5 p.c. 5 p.c. 8 p.c.

28220-1 Hydraulic cement concrete mixes, wet or dry, not including refractory mixes ...

Free Free 22.5 p.c. Free Free

(Chapter 6)

41001-1 Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;

Fishing tools, n.o.p.;

Reamers, stabilizers, and combinations thereof, n.o.p.;

Parts of the foregoing;

All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

41001-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 41001-1:

Core drill bits, non-diamond type, for use in the exploration or drilling for water, oil or natural gas;

Rotary rock drill bits;

Augers other than those used in the exploration or drilling for water;

Air-operated mounted percussion type rock drills for underground use, and stoper drills: with a piston diameter in excess of 3 1/8" when for use in the exploration or drilling for oil, natural gas or water; with a piston diameter in excess of 3 1/4" when for use in the exploration or drilling for minerals;

Jumbo drills, pneumatic and electro-hydraulic, mounted on rubber-tired wheels;

Cable tool rigs for drilling water wells, capable of drilling in excess of 1,250 feet;

Coal-drilling machinery;

Parts of all the foregoing.

(Chapter 4)

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

41012-1 Mine roof and wall supports and support systems, of metal, including yielding props, chocks, roof-bars, and chock release apparatus, but not including roof bolts or washers or nuts therefor;

Mining machines for extracting and loading minerals directly from the working face of a mine;

Trucks, tractors, or shuttle cars, self-propelled, for use exclusively underground;

Tubes or shells to be inserted in the face for breaking down coal or other minerals by the release of carbon dioxide or compressed air; pipes, tubes and fittings for use therewith;
Parts of all the foregoing ...

Free Free Free Free Free

41013-1 Coal-cutting machines;
Dust collectors;
Elevating platforms, including raise climbers, for use underground;
Loading machines, including draglines and power shovels;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Scales for use with conveyors;
Parts of all the foregoing ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

41013-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 41013-1:

Coal-cutting machines;
Loading machinery, including draglines and power shovels, other than: hydraulic excavating backhoes, weighing 321,000 pounds or less, or with bucket capacity of 16 cubic yards or less; hydraulic excavating power shovels, weighing 310,000 pounds or less, or with a bucket capacity of 13.1 cubic yards or less; wheel type integral excavating front-end loaders, with a bucket capacity of 15 cubic yards or less;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Parts of all the foregoing.

41014-1 Wire rope which otherwise would be classifiable under tariff item 41012-1, 41013-1 or 41013-2 ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

41021-1 Machinery and apparatus for sintering or pelleting iron ore, concentrated or not, or flue dust;
 Machinery and apparatus for use in the construction, equipment and repair of blast furnaces for smelting iron ore, such machinery and apparatus to include blast furnace fans, blowers or compressors, hot blast stoves and burners, blast piping and valves connecting the fans, blowers or compressors with the furnace, scale cars, charging and hoisting apparatus, blast furnace gas piping, cleaners and washers;
 Machinery for the extraction of precious metals by the chlorination or cyanide processes, not including pumps, vacuum pumps, fans, blowers or compressors;
 Mercury pumps;
 Non-metallic heating elements;
 Parts of all the foregoing ...

Free	Free	Free	Free	Free
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41022-1 Agitators;
 Amalgam cleaners;
 Automatic ore samplers;
 Classifiers;
 Converting apparatus for metallurgical processes;
 Feeders, mechanical;
 Filters;
 Flotation machines, flotation cells, and oil feeders and reagent feeders therefor;
 Furnace slag trucks and slag pots;
 Pyrometers;
 Retorts;
 Screens, including oscillating, revolving, shaking, stationary, travelling and vibrating screens, and grizzlies;
 Separators, including jigs and magnetic or electric separators and magnetic pulleys;
 Thickeners;
 Chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations;
 Machinery and apparatus for use in the refining of metals or in roasting or smelting or the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes;

Machinery and apparatus for use in washing, screening,
drying or dry cleaning coal;
Parts of all the foregoing ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

41022-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 41022-1:

Air separator equipment, not including compressors, heat exchangers, steel vessels or tanks;
Amalgam cleaners;
Laboratory centrifuges;
Machinery and apparatus for use in washing, screening, drying or dry cleaning coal;
Physical properties testing/inspecting equipment, except pyrometers;
Retorts;
Rotary open-hearth furnaces;
Parts of all the foregoing.

(Chapter 4)

41026-1 Machinery and apparatus for use in producing coal gas and coke; machinery and apparatus for use in the distillation or recovery of products from coal tar or coal gas; parts of all the foregoing ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

41031-1 Machinery and apparatus for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants, namely:

Dust collection machinery and equipment;
Dust precipitators, catalytic and electrostatic types;
Filter elements;
Filtering machinery;
Centrifugal separators;
Parts of all the foregoing ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

(Chapter 4)

Valves, power boilers, engines, turbines, electric generators and motors, mechanical power transmission equipment not including bearings or pulleys, air and gas compressors, fans and blowers, pumps of all kinds, heat exchangers and electronic automatic data-processing equipment; all the foregoing when otherwise classifiable under tariff items 41013-1, 41013-2, 41022-1, 41022-2, 41026-1, 41031-1, 49104-1, 49104-2, 49201-1, 49210-1, 49215-1 or 49215-2, or when for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants;

Air engines, flameproof enclosed driving motors, pumps, vacuum pumps, fans, blowers or compressors, when for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals;

Fans, blowers or compressors, of iron or steel, for use in the smelting or refining of ores, metals or minerals;

Chemical injection pumps for use in connection with oil or natural gas wells for installation between the well-head assembly or surface oil pumping unit and the field marketing valve;

Parts of all the foregoing:

41047-1 Other than the following ...

1/1/83	5 p.c.	12.1 p.c.	22.5 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	22.5 p.c.	5 p.c.	9.2 p.c.

41047-2 Other than the following, when otherwise classifiable under tariff item 49201-1, 49215-1 or 49215-2 ...

1/1/83	5 p.c.	8.4 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.

41047-3 Valves, iron, other than power valves, namely:

ball valves over 2 inch screwed,
plug valves over 12 inch screwed;

Plug valves, steel, other than power valves, over 4 inch screwed/12 inch flanged or with an ASA rating of 900 or more;

Power boilers, water tube type, package units, with a capacity in excess of 165,000 lb/hr;

Semi-diesel engines;

Diesel dual fuel engines;

Diesel engines having a continuous rated brake horsepower of less than 700 or more than 4,500 or having a piston displacement of less than 600 or more than 700 cubic inches per cylinder;

Engines, gas, with a brake horsepower not in excess of 75;
Turbines, gas, rated at less than 1,000 hp or more than
50,000 hp;
Air motors;
Natural gas-fired, general-purpose engines, rated at less
than 3,000 hp or more than 8,000 hp;
Hydraulic general-purpose motors;
Compressed gas general-purpose engines without combustion;
Electric AC motors, rated at more than 1,500 hp;
Electric DC motors, rated at not more than 1 hp;
Flameproof enclosed driving motors, other than induction
motors rated from 1 hp to 600 hp for use in underground
coal mining;
Planetary gear type speed reducers other than those with
25:1 to 64:1 speed ratios and 5 to 30 hp;
Hydraulic couplings for power transmission;
Hydraulic pumps;
Pneumatic power transmission equipment;
Air compressors, namely:
portable, over 1,600 cfm,
stationary, reciprocating, liquid cooled, rated at 9 hp
or less,
stationary, reciprocating, air cooled, rated from 51 hp
to 150 hp,
stationary, rotary, vane/screw, with ratings other than
vane 30-40 hp or screw 40-50 hp,
stationary, rotary, centrifugal, rated at under 750 cfm
or over 140,000 cfm;
Gas compressors, namely:
stationary, reciprocating, rated at less than 150 hp,
diaphragm type;
Engine-compressors, gas, reciprocating, rated at less
than 90 hp or more than 13,500 hp;
Centrifugal, multi-stage, single suction pumps, with head
over 800 psi;
Power pumps, reciprocating, plunger type, rated at more
than 80 gpm or 3,300 psig;
Chemical injection pumps;
Jack pumps over 640 in/lb torque rating;
Liquid petroleum gas pumps;
Braised aluminum heat exchangers for cryogenic service;
Electronic automatic data-processing equipment;
Parts of all the foregoing ...

Free

Free

Free

Free

Free

Machinery and apparatus for preparing, manufacturing, testing or finishing yarns, cordage, and fabrics made from textile fibres or from paper, other than goods enumerated in tariff item 42700-6, imported for use exclusively by manufacturers and scholastic or charitable institutions in such processes only; parts of the foregoing:

41305-1 Other than the following ...

Free	Free	10 p.c.	Free	Free
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41305-2 Hand looms;

The following, when for preparing or finishing fabrics:

Decatising machines, automatic;

Finishing pads;

Inspection tables with fractionation;

Squeezing pads;

Winding, measuring and folding machines;

Parts of all the foregoing ...

1/1/83	2.5 p.c.	12.1 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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1/1/87	2.5 p.c.	9.2 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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(Chapter 6)

Machinery and apparatus for use exclusively in the tanning, drying, finishing, plating, measuring or grading of leather; parts of the foregoing, not to include motors, pumps or bearings:

42000-1 Other than the following ...

Free	Free	10 p.c.	Free	Free
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42000-2 Hide mixing machinery and apparatus;

Soak drums and tanks;

Tanning and re-tanning drums, vessels and apparatus;

Dry milling machinery and apparatus;

Spraying machinery and apparatus;

Spray control and exhaust equipment and apparatus;

Parts of all the foregoing ...

1/1/83	2.5 p.c.	12.1 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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1/1/87	2.5 p.c.	9.2 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
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(Chapter 6)

42100-1 Machinery and complete parts thereof, when imported by manufacturers of clay products for use exclusively in the manufacture of clay products, in their own factories, under regulations prescribed by the Minister - viz: blungers, pugging machines, wet or dry pans, clay disintegrators, ball mills, pull-downs, batting-out machines...

1/1/83	Free	6.5 p.c.	10 p.c.	Free	5.5 p.c.
1/1/87	Free	5.5 p.c.	10 p.c.	Free	5.5 p.c.

42600-1 Ozone generators or ozones airifiers having a capacity of less than 25 pounds per day; parts thereof ...

Free	5 p.c.	10 p.c.	Free	5 p.c.
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(Chapter 6)

Machines and tools, including blades, loaders, rippers, rakes and related operating and controlling gear; all the foregoing for use on internal combustion tractors entitled to entry under tariff item 40938-1; parts of the foregoing:

42761-1 Other than the following ...

1/1/83	2.5 p.c.	12.1 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.
1/1/87	2.5 p.c.	9.2 p.c.	35 p.c.	2.5 p.c.	9.2 p.c.

42761-2 Hydraulic pumps, hydraulic valves, hydraulic controls, shafts other than camshafts or driveshafts, all for power transmission;
Hydraulically-operated winches with capacities in excess of 60,000 pounds;
Well or logging type winches with capacities in excess of 60,000 pounds;
Automotive type winches;
Road sweepers;
Pipelaying attachments for construction purposes, other than those with a capacity not exceeding 20,000 pounds at 4 feet from side of machine;
Attachments for lawn and garden tractors, other than pull-behind lawn mowers and lawn rollers;
Lawn sweepers;
Rotary brooms, 58 inches or less in diameter;
Parts of all the foregoing ...

Free	Free	35 p.c.	Free	Free
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(Chapter 8)

42765-1 Hydraulic equipment, torque converters and engine-over-axle type transmissions; wheel rims 24 inches or more in diameter; all the foregoing, and parts thereof, for use in the manufacture of road graders or scrapers ...

Free Free 35 p.c. Free Free

42766-1 Torque converters and hydraulic couplings, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, backhoes and snowblowers ...

Free Free 30 p.c. Free Free

(Chapter 8)

42815-1 Diesel engines, n.o.p., having a continuous rated brake horsepower within the range 700 to 4,500 inclusive, together with a piston displacement of not less than 600 and not more than 700 cubic inches per cylinder; parts thereof ...

1/1/83	Free	12.1 p.c.	30 p.c.	Free	12.1 p.c.
1/1/87	Free	9.2 p.c.	30 p.c.	Free	9.2 p.c.

42816-1 Diesel/gaseous dual fuel engines; diesel engines capable of burning fuel of a viscosity of not less than 1,500 seconds Redwood No. 1 at 100° Fahrenheit (37.7° Celsius); diesel and semi-diesel engines, n.o.p.; parts of all the foregoing ...

Free Free 30 p.c. Free Free

42830-1 Diesel and semi-diesel engines, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, backhoes, graders or scrapers and snowblowers ...

Free Free 30 p.c. Free Free

42865-1 L.P.G. engines;
Gasoline internal combustion engines;
Reciprocating natural gas engines;
Rotary natural gas engines having a brake horsepower of up to 3,000;
Parts of all the foregoing;

All the foregoing for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1 ...

Free	Free	30 p.c.	Free	Free
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42875-1 Gasoline internal combustion, water-cooled engines, of 75 continuous brake horsepower or less, for use in the manufacture of portable air compressors and transit concrete mixers ...

Free	Free	30 p.c.	Free	Free
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42880-1 Gasoline internal combustion engines, air-cooled, four cycle, not greater than nine horsepower, for use in the manufacture of plate type vibratory compactors ...

Free	Free	30 p.c.	Free	Free
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(Chapter 7)

43150-1 Geophysical precision instruments and equipment, n.o.p.; parts, attachments, tripods, base plates and fitted cases for the foregoing ...

Free	Free	20 p.c.	Free	Free
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43155-1 Photogrammetric and remote-sensing instruments and equipment, including plotting equipment; accessories for use with the foregoing; parts and fitted cases for all the foregoing ...

Free	Free	20 p.c.	Free	Free
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(Chapter 9)

43405-1 Locomotives, powered or capable of being powered by diesel engines described in tariff item 42815-1, and motor cars for railways; all the foregoing for use exclusively in mining, metallurgical or sawmill operations, and chassis, tops, wheels and bodies for the same, n.o.p. ...

1/1/83	15 p.c.	16.3 p.c.	35 p.c.	10.5 p.c.	15 p.c.
1/1/87	15 p.c.	15 p.c.	35 p.c.	10 p.c.	15 p.c.

43505-1 Railway locomotives for use exclusively in mining, metallurgical or sawmill operations, n.o.p.; parts of the foregoing including motive power and parts thereof but not including engines, or parts thereof, provided for in tariff item 42816-1 ...

Free Free 20 p.c. Free Free

43510-1 Diesel switching locomotives not including those powered or capable of being powered by engines described in tariff item 42815-1; parts thereof, not including motive power and parts thereof ...

Free 10 p.c. 20 p.c. Free 10 p.c.

(Chapter 8)

Parts for signals systems by which railroads govern or control the movement and route of rail vehicles, warn of the approach of rail vehicles, detect dangerous conditions on or near the track or on rail vehicles, or determine the identity of passing rail vehicles:

43705-1 Other than the following ...

Free Free 25 p.c. Free Free

43705-2 Apparatus housings;
Batteries;
Bolts, nuts and screws;
Bootleg pedestals;
Electronic carrier systems;
Flashing light crossarms;
Foundations;
Fuses;
Insulated switch rods;
Number plates;
Pole line type lightning arresters;
Power service entrance equipment;
Power transformers;
Semaphore train order signals;
Signal bridges, cantilevers and appurtenances;
Signal lamp bulbs;
Signal masts, ladders, mast bases, pinnacles and clamps;
Signs;

Wire connectors;
Wooden gate arms;
Parts of all the foregoing ...

1/1/83	13.9 p.c.	13.9 p.c.	25 p.c.	9.5 p.c.	13.9 p.c.
1/1/87	10.2 p.c.	10.2 p.c.	25 p.c.	6.5 p.c.	10.2 p.c.

(Chapter 8)

43864-1 Unserviceable parts of internal combustion engines, commonly known as "cores", for remanufacturing in Canada, namely: electric starter motors, generators and alternators, 32 volts or less ...

Free	Free	27.5 p.c.	Free	Free
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43864-2 Parts for the remanufacture or repair of electric starter motors, generators or alternators, 32 volts or less ...

Free	Free	27.5 p.c.	Free	Free
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(Chapter 7)

44028-1 Chronometers and compasses, and parts thereof, including cards therefor, for ships or aircraft ...

Free	Free	Free	Free	Free
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(Chapter 9)

44125-1 (Pistols), shot-guns and rifles, including .22 calibre target rifles but not including all other .22 calibre rimfire rifles; parts of the foregoing ...

1/1/83	Free	6.5 p.c.	30 p.c.	Free	5.5 p.c.
1/1/87	Free	5.5 p.c.	30 p.c.	Free	5.5 p.c.

(Chapter 6)

44210-1 Rotors, blade diaphragms, spindle discs, shafts and blades, wholly or in chief part of metal, when imported for use in the repair or remanufacture of gas or steam turbines and parts thereof entitled to entry under tariff item 42805-3 ...

Free	Free	Free	Free	Free
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(Chapter 7)

44315-1 Hydrostatically-operated controls, and parts thereof, for use in the manufacture of gas water heaters ...

Free Free 30 p.c. Free Free

44320-1 Gas control devices, n.o.p., not including automatic pilots, thermostatic controls, thermostatically-operated controls, gas control valves up to and including 3/4 inch (19 mm) internal pipe size, and pilot safety devices whether singly or in combination with the aforementioned gas control valves. The foregoing for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or heating buildings, or for heating water or for refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device; parts of the foregoing ...

Free Free 30 p.c. Free Free

(Chapter 9)

Electric apparatus and complete parts thereof, n.o.p.:

44524-2 Indicating and/or controlling equipment, and complete parts thereof, for flame failure protection - viz: ultra-violet, infra-red flame detectors; ultra-violet, infra-red flame amplifier modules; flame amplifier modules for converting flame signals to relay output ...

1/1/83 Free 6.5 p.c. 30 p.c. Free 5.5 p.c.
1/1/87 Free 5.5 p.c. 30 p.c. Free 5.5 p.c.

(Chapter 9)

44530-1 Electric transformers, rectifiers, cable-connecting devices, trailing cable extensions with couplers moulded on, junction boxes, and complete parts of all the foregoing; all the foregoing when flameproof and for use in mines in which inflammable gases exist ...

Free Free 37.5 p.c. Free Free

(Chapter 4)

Electrical instruments and apparatus of precision - viz:
Meters or gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, electrolysis, flux, force, frequency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, thrust, synchronism, temperature, time, volts, volume, watts; complete parts thereof:

44532-1 Other than the following ...

1/1/83	13.9 p.c.	13.9 p.c.	30 p.c.	9 p.c.	13.9 p.c.
1/1/87	10.2 p.c.	10.2 p.c.	30 p.c.	6.5 p.c.	10.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

44532-2 Alpha-beta geiger counters and geiger-muller counters;
Ceilometers;
Concrete testers;
Diagnostic timing instruments, hand held;
Digital pyrometers, hand held;
Dynamic balancing machines capable of balancing rotors weighing up to 50,000 pounds;
High voltage capacitance bridges;
Instruments, except bridges, for measuring impedance;
Instruments for measuring or detecting nuclear radiation;
Instruments for measuring wind speed or direction;
Interferometric spectrophotometers;
Meters for recording or measuring electricity supply, water current or water supply;
Null meters;
Radars for primary or secondary surveillance by airports;
Resistance bridges;
Sonar and echo sounding equipment;
Temperature bridges;
Temperature measuring devices employing resistance thermal detector sensing elements, 4 1/2 inches square face;
Thickness sensors;
Transducers;
Transmissometers;

Vibration, noise and spike energy measuring instruments,
analysers and monitors;
Voltmeters, panel type, 2 1/2 inches, 3 1/2 inches or 4
1/2 inches square face;
Voltmeters, switchboard type, 4 1/2 inches square face;
Wattmeters;
X-ray fluorescence spectrometers;
Parts of all the foregoing ...

1/1/83	13.9 p.c.	13.9 p.c.	30 p.c.	9 p.c.	13.9 p.c.
1/1/87	10.2 p.c.	10.2 p.c.	30 p.c.	6.5 p.c.	10.2 p.c.

(Chapter 9)

44725-1 Well points, well screens and well strainers; parts of all
the foregoing ...

1/1/83	10 p.c.	13.9 p.c.	35 p.c.	9 p.c.	10.2 p.c.
1/1/87	10 p.c.	10.2 p.c.	35 p.c.	6.5 p.c.	10.2 p.c.

44726-1 Pitless well-heads and parts thereof ...

1/1/83	Free	6.5 p.c.	12.5 p.c.	Free	5.5 p.c.
1/1/87	Free	5.5 p.c.	12.5 p.c.	Free	5.5 p.c.

(Chapter 4)

46245-1 Cameras, cinematograph and motion picture cameras and video
cameras;
View-finders for use with the foregoing cameras;
Camera blimps;
Dollies or other mobile mounts for cameras, cinematograph
and motion picture cameras or video cameras;
Booms, without wiring, for use with microphones;
Film or video tape editing equipment, namely: editing
machines, splicers, synchronizers, viewers, rewinds or
combinations of any of these;
Optical sound equipment;
Magnetic and digital sound equipment, namely: automated
digital or analog sound mixing consoles incorporating
micro-processor or micro-computer control systems; tape
recorders including video tape recorders; signal process-
ing equipment not to include compressors or equalizers;
Parts of all the foregoing;

All the foregoing for use in the commercial production of series of images, with or without sound, giving the illusion of motion, on conventional still or motion picture film or on video tape, or of sound recordings ...

Free	Free	22.5 p.c.	Free	Free
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(Chapter 9)

47825-1 Invalid chairs, commode chairs, walkers and all other aids to locomotion, with or without wheels; motive power and wheel assemblies therefor; selector control devices designed to enable disabled persons to select, energize or control various household, industrial and office equipment, but not including the equipment controlled by these devices; patterning devices; toilet, bath and shower seats; all specially designed for the disabled; accessories and attachments for all the foregoing; parts of all the foregoing ...

1/1/83	Free	10 p.c.	15 p.c.	Free	9.2 p.c.
1/1/87	Free	9.2 p.c.	15 p.c.	Free	9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, or parts thereof, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods or parts are not available from production in Canada, remit the duty specified in this item applicable to the goods or parts, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

(Chapter 6)

Machinery and apparatus for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the well-head assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include automotive vehicles or chassis on which the machinery and apparatus are mounted:

49104-1 All other machinery and apparatus and parts thereof;
parts of goods enumerated in tariff item 49103-1 ...

1/1/83	5 p.c.	10 p.c.	20 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	20 p.c.	5 p.c.	9.2 p.c.

49104-2 Under the provisions of section 17 of the Financial Administration Act, duty to be remitted, until further notice, on the following goods when classifiable under tariff item 49104-1:

Airborne synthetic aperture radar;
Bolted steel tanks;
Coiled steel mechanical tubing;
Cranes for use on ships, boats or barges, except hydraulic type hoists;
Filter presses;
Flexible metal tubing, non-electric;
Geophysical instruments, including magnetometers;
Gravity meters for use in prospecting;
Marine navigation radar, but not including satellite position-fixing systems;
Oceanographic research equipment;
Oil well pressurizing equipment;
Physical properties testing/inspection equipment;
Pressure measuring/controlling instruments;
Roller chain: power transmission, conveyor, and offset sidebar types;
Seismic instruments;
Surveying instruments;
Parts of all the foregoing.

(Chapter 5)

All the following for use in connection with oil or natural gas wells for installation between the well-head assembly or surface oil pumping unit and the field marketing valve:

49201-1 Chokes, beans and flow controllers; separators and treaters, oil, gas or water ...

1/1/83	5 p.c.	8.4 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.

49202-1 Bolted steel tanks ...

Free	Free	Free	Free	Free
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(Chapter 5)

49210-1 Machinery and apparatus for use in the distillation or recovery of products from natural gas; parts thereof ...

1/1/83	5 p.c.	12.1 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/87	5 p.c.	9.2 p.c.	25 p.c.	5 p.c.	9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

(Chapter 5)

Machinery and apparatus for use in recovering and producing crude oil from shales, oil-sands or tar-sands; parts of the foregoing:

49215-1 Other than the following ...

1/1/83	5 p.c.	8.4 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

49215-2 Flexible metal tubing, non-electric;
Stainless steel seamless pipes and piping;
Wheel type integral excavating front-end loaders with bucket capacity in excess of 15 cubic yards, and parts thereof ...

Free	Free	Free	Free	Free
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(Chapter 5)

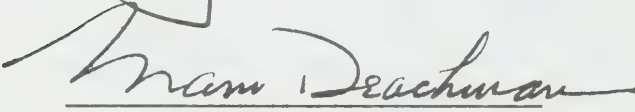
49216-1 Wire rope which would otherwise be classifiable under
tariff item 49215-1, 49215-2 or 49217-1 ...

1/1/83	5 p.c.	8.4 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/87	5 p.c.	6.8 p.c.	20 p.c.	4.5 p.c.	6.8 p.c.

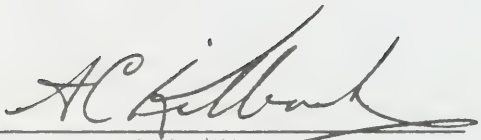
(Chapter 5)




John A. MacDonald
Chairman



G. Deachman
First Vice-Chairman



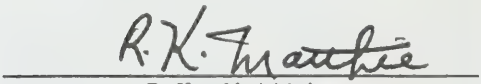
A.C. Kilbank
Member



K.C. Martin
Member



Jean P. Bertrand
Member



R.K. Matthie
Member

Ottawa
December 15, 1982

A P P E N D I C E S

APPENDIX I

TARIFF ITEMS REFERRED TO THE BOARD FOR STUDY

ANNEX I

19755-1	42000-1	44125-1
28105-1	42100-1	44210-1
38003-1	42600-1	44320-1
41001-1	42761-1	44524-2
41002-1	42762-1	44532-1
41012-1 Ex.	42765-1 Ex.(a)	46115-1
41013-1	42865-1	47825-1
41014-1	42875-1	47826-1
41021-1 Ex.	42880-1 Ex.	49104-1
41022-1	42885-1	49105-1
41023-1	43150-1	49201-1
41026-1	43425-1 Ex.(a)	49202-1
41027-1	43505-1	49210-1
41031-1	43510-1	49211-1
41032-1	43705-1	49215-1
41305-1	43710-1	49216-1
41700-1		

ANNEX II

21950-1	43820-1	46218-1(b)
30620-1	43821-1	46246-1(b)
31500-1 Ex.(a)	43824-1	46400-1
32645-1	43825-1	47605-1 Ex.(a)
32669-1	43826-1	47615-1
35235-1	43861-1	53415-1
38002-1(b)	43864-1 Ex.(a)(b)	56255-1
39225-1	43877-1	56705-1
40700-1	44022-1	56710-1
41106-1	44025-1(b)	56930-1
42726-1	44028-1(b)	56935-1
43155-1(b)	44059-1	68200-1 Ex.(a)
43806-1	44205-1	85800-1
43807-1	44305-1	86000-1
43811-1	44315-1(b)	86400-1
43812-1	44530-1(b)	92944-2
43813-1	44560-1	93819-14
43814-1	44569-1	97052-1
43815-1	44643-1	97053-1
43816-1	44725-1(b)	97056-1
43819-1	46111-1 Ex.(a)(b)	97071-1

(a) Subsequently determined that not all of the provisions of the tariff item fall directly within the ambit of the reference.

(b) Transferred by the Board for study and reporting purposes to the first phase of the inquiry.

APPENDIX II

RELATED TARIFF ITEMS:
NOMENCLATURE AND RATES OF DUTY

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 18100-1</u>					
Bank notes, bonds, bills of exchange, cheques, promissory notes, drafts and all similar work, unsigned, and cards or other commercial blank forms printed or lithographed, or printed from steel or copper or other plates; printed matter, n.o.p.	15.7	16.7	35	11	15.7
Effective...1/1/87	11.3	11.3		7.5	11.3

Paper and paperboards of all kinds, n.o.p.:					
<u>Item 19700-1</u>					
Other than the following	12.8	12.8	25	8.5	12.8
Effective...1/1/87	9.2	9.2		6	9.2

<u>Item 28100-1</u>					
Fire brick containing not less than ninety per cent of silica; magnesite fire brick or chrome fire brick; other fire brick valued at not less than one hundred dollars per one thousand, rectangular shaped, the dimensions of each not to exceed one hundred and twenty-five cubic inches, for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment	Free	Free	Free	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 28110-1</u>					
Fire brick, n.o.p.	5	8.8	22.5	5	6.8
Effective...1/1/87		6.8		4.5	
<u>Item 28205-1</u>					
Manufactures of clay or cement, n.o.p.	10.8	10.8	22.5	7	10.8
Effective...1/1/87	8	8		5	8
<u>Item 28220-1</u>					
Hydraulic cement concrete mixes, wet or dry	Free	Free	22.5	Free	Free
<u>Item 35200-1</u>					
Brass and copper nails, tacks, rivets and burrs or washers; bells and gongs; n.o.p.; and manufactures of brass or copper, n.o.p.	14.8	14.8	30	9.5	14.8
Effective...1/1/87	10.2	10.2		6.5	10.2
<u>Item 36800-1</u>					
Clocks, time recorders, clock movements, clockwork mechanisms, and clock cases	15	24.1	35	15	22.5
but not less than each			50 cts.		
Effective...1/1/87		22.5			
<u>Item 36900-1</u>					
Parts of clock movements or of clockwork mechanisms, finished or unfinished, not including plates	10	10.8	25	7	10
Effective...1/1/87	8	8		5	8

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				

Shapes or sections of iron or steel, not further manufactured than hot- or cold-rolled:					
Angles, beams, channels, tees, zees, or other shapes or sections, n.o.p.:					
<u>Item 38001-1</u>					
Alloy	5	9.6	20	5	7.8
Effective...1/1/87		7.8			
<u>Item 38001-2</u>					
Other	5	9.5	20	5	6.8
Effective...1/1/87		6.8			

Castings, of iron or steel:					
<u>Item 39101-1</u>					
Being ingot moulds for use in the production of steel	Free	Free	Free	Free	Free
<u>Item 39102-1</u>					
Being moulds, n.o.p.	Free	6.8	10	Free	5.5
Effective...1/1/87		5.5			

<u>Item 39905-1</u>					
Pipes or tubes of iron or steel, commonly known as "oil-country goods", being casing or tubing and fittings, couplings, thread protectors and nipples therefor; all of the foregoing for use in connection with natural gas or oil wells	5	9.5	20	5	6.8
Effective...1/1/87		6.8		4.5	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
- per cent -					
<u>Item 39910-1</u>					
Drill-pipe, for use in connection with natural gas or oil wells ..	Free	Free	Free	Free	Free

Fittings and couplings of iron or steel, n.o.p., for pipes and tubes; parts therefor:					
<u>Item 40000-1</u>					
Alloy	15	16.6	30	11	15
Effective...1/1/87	12.2	12.2		8	12.2
<u>Item 40000-2</u>					
Other	15	16.3	30	10.5	15
Effective...1/1/87	12.2	12.2		8	12.2

Products of wire of iron or steel, namely:					
<u>Item 40113-1</u>					
Wire rope and strand, n.o.p.; wires, twisted, braided, bunched or otherwise con- joined, n.o.p.	10	12.8	25	8.5	10
Effective...1/1/87	9.2	9.2		6	9.2
<u>Item 40114-1</u>					
Wire rope or cable, coated or not, for use exclusively in commercial fishing operations	Free	8.8	25	Free	6.8
Effective...1/1/87		6.8			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 40924-1</u>					
Aluminum sluice-type devices for controlling water in irrigation ditches;					
Animal clippers;					
Automatic stock watering devices;					
Barn hay forks, carriage, pulleys and track;					
Barn litter carriers and track;					
Combination excavating and transporting scrapper units;					
Egg cooling cabinets;					
Elevators (other than storage elevators);					
Grain crushers;					
Grain or hay dryers;					
Grain or hay grinders;					
Grain loaders;					
Gravity discharge farm wagon boxes;					
Hay stack forms;					
Heaters for orchards;					
Hitches and couplings;					
Hydraulic hoists for unloading vehicles;					
Land levellers;					
Machines and tools for use on tractors, including blades, loaders, rippers, rakes and related operating and con- trolling gear;					
Milk coolers;					
Sodium metabisulphite;					
Sprinkler irrigation systems;					
Steel stanchions for confining livestock either in pens or individually, and complete equipment for milking parlours;					
All the foregoing for use on the farm purposes only;					
Brooders;					
Ensilage cutters;					
Fodder or feed cutters;					
Hay loaders;					
Hay tedders;					
Post hole diggers;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
- per cent -					
Potato diggers;					
Potato planters;					
Snaths;					
Stumping machines;					
All other agricultural implements or agricultural machinery, n.o.p.;					
Parts of all the foregoing	Free	Free	Free	Free	Free

Item 40938-1

Internal combustion tractors other than highway truck-tractors and other than the following integrated self-propelled machines: front-end loaders or tractor shovels, tractor dozers, log skidders, log loaders, fork lift or lift trucks, combination excavating and transporting scraper units, combination excavating and loading machines, street sweepers, mobile compressors, and snow moving machines; accessories, n.o.p., and parts thereof, for tractors entitled to entry under this item; parts of tractors entitled to entry under this item	Free	Free	Free	Free	Free
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Item 41003-1

Rotary blasthole drills for use in open pit mining; parts thereof	Free	Free	Free	Free	Free
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Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
- per cent -					
<u>Item 41011-1</u>					
Crushing machines and grinding mills;					
Mine shaft hoists;					
Parts of all the foregoing	5	12.8	25	5	9.2
Effective...1/1/87		9.2		6	

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

Item 41020-1

Slime or concentrating tables ..	Free	Free	Free	Free	Free
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Item 41100-1

Machines for use in sawing lumber, up to but not including the operation of planing, and parts thereof, not including equipment for driving the machinery of the saw mill, when for use exclusively in saw mills;

Machines, and parts thereof, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

10	10.8	20	7	10
Effective...1/1/87	8	8	5	8

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the <u>Financial Administration Act</u> apply in the case of remission granted under this provision.					

Item 41105-1

Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier	10	11.3	20	7.5	10
Effective...1/1/87	9.2	9.2		6	9.2

Item 41310-1

Materials for use in the manufacture of goods specified in tariff item 41305-1	Free	Free	10	Free	Free
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Electronic data processing machines and apparatus; peripheral equipment for use therewith including data entry, data preparation and data handling machines and apparatus; accessories and attachments for use therewith; parts of all the foregoing; none of the foregoing to include telephone and telegraph apparatus and parts thereof:

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 41417-1</u>					
Other than the following	Free	6.3	25	Free	3.9
Effective...1/1/87		3.9			

Item 41417-2

Drum storage memories; disc packs; disc drives; disc files; disc cartridge cleaners; card readers; card punches; card readers/punches; paper tape readers and punches; badge readers and punches; document transport mechanisms; tape to card punches; reproducing punches; line printers and page writers; card printers; matrix printers including buffered printers; card or paper tape verifiers; collators; card sorters; process control apparatus which converts analog signals from or to digital signals, the foregoing not to include sensors; card conditioning equipment;					
Parts of the foregoing	Free	Free	35	Free	Free

Item 42505-1

Power lawn mowers, self-propelled or not, whether or not containing the power unit	14.8	14.8	32.5	9.5	14.8
Effective...1/1/87	10.2	10.2		6.5	10.2

Item 42510-1

Gang-type lawn mowers designed to be drawn or pushed mechanically; parts thereof	10	12.8	32.5	8.5	10
Effective...1/1/87	9.2	9.2		6	9.2

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42515-1</u>					
Lawn mowers, n.o.p.	10	12.8	32.5	8.5	10
Effective...1/1/87	9.2	9.2		6	9.2

Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:					
<u>Item 42700-1</u> ^(b)					
Other than the following	2.5	12.8	35	2.5	9.2
Effective...1/1/87		9.2			
<u>Item 42700-6</u>					
Automobile air conditioners when imported in "kits" complete;					
Bone working machines;					
Bottle washing machines, bottle filling machines, bottle cap- ping machines, and any combi- nation thereof, for use by the beverage industry;					
Button making machines;					
Can making machines;					
Centrifugally cast paper machine roll shells;					
Cheese making machines, in- cluding cheese dyeing ma- chines, but not including cheese presses and vats;					
Combination excavating and transporting scrapers;					
Combination ice cube makers and dispensers;					
Commercial laundry machines, namely;					
centrifugal extractors,					
flatwork ironers,					
washer-extractors;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
Confectionery industry manufacturing machines, namely: chocolate coating, enrobing, tempering moulding machines, candy pulling and extruding machines, chewing gum making machines, cotton candy making machines;					
Counter-top electric dishwashers;					
Feed pellet mills;					
Fish skinning, deheading and grinding machines;					
Flour mills, domestic;					
Glass making machines, not including furnaces;					
Hand-held pneumatic and hydraulic powered machines, other than rock drills, stoper drills and feed legs, sinker drills, paving breakers, spaders and diggers;					
Lime slaker machines;					
Nailing machines, woodworking;					
Paper and paperboard converting machines;					
Paper testing machines and paper laminating machines;					
Pasta making machines, including macaroni making machines;					
Pencil lead extrusion machines;					
Portable air conditioners, 55 lbs. or less in weight, up to 6,000 BTU in capacity, not including window type;					
Processed breakfast cereal food manufacturing machines, namely: extruders, cooker-extruders, toasting ovens, louvre driers, puffing machines including guns and ovens, coating drums, shredders, flaking rolls and shredding rolls;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
Railway crane or derricks of a type designed for lifting locomotives;					
Roller milling machines for refining sugar;					
Sash type gang saws;					
Saw sharpening machines, wood-working;					
Self-propelled crawler machines, commonly known as bulldozers, with blades;					
Shoemaking industry machines, not including moulding machines;					
Slide fastener making machines;					
Slush drink making and dispensing machines;					
Soft ice-cream making and dispensing machines;					
Speed regulators of the electro-mechanical type for hydraulic and steam turbines;					
Stone working machines;					
Tape embossing machines;					
Textile industry machines, namely:					
bleaching and dyeing machines,					
industrial sewing machines,					
knitting machines,					
spinning and related machines,					
weaving machines, including Jacquard machines and Dobby looms;					
Tobacco processing or preparing machines;					
Toothbrush making machines;					
Ultra-sonic cleaners, other than for washing cases;					
Venetian blind making machines;					
Water coolers, office-type drinking fountains with integrally incorporated refrigeration units;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
- per cent -					
Parts of the foregoing;					
All of the foregoing to include, subject to tariff item 42700-3, accessories, attachments, control equipment including jacquards and tools for use therewith; parts of the foregoing	Free	Free	35	Free	Free

Articles which otherwise would be classified under tariff items 42700-1 to 42700-4, namely: compressor sets, electricity generating sets, fork lift trucks, front-end loaders or tractor shovels, gear reducers, pumps and pump sets, motor operated valves, positive displacement blowers and vacuum pumps, metal working lathes, metal working milling machines, cutting tools for use with metal working machines, articulated folding boom-type cranes designed for mounting on trucks; accessories, attachments and control equipment for use therewith; parts of the foregoing.					
<u>Item 42701-1</u> (b)					
Other than the following	2.5	12.8	35	2.5	12.8
Effective...1/1/87		9.2			9.2

<u>Item 42768-1</u>					
Engines, axle assemblies, torque converters, transmissions, and parts thereof, for use in the manufacture of machines commonly known as high-lift loaders and front-end loaders or tractor shovels	Free	Free	30	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42805-1</u>					
Boilers and complete parts there- of, n.o.p.	14.1	14.1	30	9	14.1
Effective...1/1/87	12.5	12.5		8	12.5
<u>Item 42805-2</u>					
Engines and complete parts there- of, n.o.p.	12.8	12.8	30	8.5	12.8
Effective...1/1/87	9.2	9.2		6	9.2
<u>Item 42805-3</u>					
Turbines, steam or gas, and com- plete parts thereof, n.o.p.	15	15	30	10	15
<u>Item 42815-1</u>					
Diesel and semi-diesel engines, of a class or kind made in Canada, and parts thereof, n.o.p.	Free	12.8	30	Free	13.6
Effective...1/1/87		9.2			9.2
<u>Item 42816-1</u>					
Diesel and semi-diesel engines, of a class or kind not made in Canada, and parts thereof, n.o.p.	Free	12.8	30	Free	9.2
Effective...1/1/87		9.2			
<u>Item 42817-1</u>					
Diesel and semi-diesel engines of 500 horsepower or less, and com- plete parts thereof, n.o.p.	Free	12.8	30	Free	9.2
Effective...1/1/87		9.2			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42825-1</u>					
Starter cartridges, fuel injection pumps and nozzles, and parts thereof, for diesel and semi-diesel engines	Free	Free	Free	Free	Free
<u>Item 42830-1</u>					
Diesel and semi-diesel engines, torque converters and hydraulic couplings, and parts thereof, for use in the manufacture of rotary air compressors, power shovels, power cranes, back-hoes, graders or scrapers and snowblowers	Free	Free	30	Free	Free
<u>Item 42840-1</u>					
Rotary natural gas engines and reciprocating natural gas engines, having a brake horsepower of up to 3,000, for use in the manufacture of self-contained compressors	Free	Free	30	Free	Free
<u>Item 43120-1</u>					
Non-powered, hand-operated tools, implements or devices, namely: adzes, anvils, vises, cleavers, hatchets, saws, augers, drills, screwdrivers, planes, spoke-shaves, chisels, mallets, metal wedges, wrenches, sledges, hammers, crowbars, cantdogs, track tools, picks, mattocks, and eyes or polls for the same	10	15	35	10	11.3
Effective...1/1/87		11.3		7.5	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> ^(a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 43405-1</u>					
Locomotives and motor cars for railways, for use exclusively in mining, metallurgical or sawmill operations, n.o.p., and chassis, tops, wheels and bodies for the same, n.o.p.	15	16.6	35	11	15
Effective...1/1/87		15		10	
<u>Item 43410-1</u>					
Locomotives for use on railways, and chassis, tops, wheels and bodies for the same, n.o.p.	15	16.6	35	11	15
Effective...1/1/87		15		10	
<u>Item 43415-1</u>					
Motor rail cars or units for use on railways, and chassis for same; complete parts of the foregoing.....	Free	17.2	35	Free	12.5
Effective...1/1/87		12.5			
<u>Item 43715-1</u>					
Insulated rail joints and connections for use therewith, used in the construction or repair of railway signal systems; parts of the foregoing	Free	Free	25	Free	Free
<u>Item 43800-1</u>					
Railway cars and parts thereof, n.o.p.	15	17.5	30	11.5	17.5
<u>Item 43803-1</u>					
Automobiles and motor vehicles of all kinds, n.o.p.; electric trackless trolley buses; chassis for all the foregoing	Free	12.8	27.5	Free	9.2
Effective...1/1/87		9.2			

APPENDIX II (CONT.)

B.P.

M.F.N.

Gen.

G.P.(a)

U.K. &
Ire.

- per cent -

Machines or other articles mounted on the foregoing or attached thereto for purposes other than loading or unloading the vehicle shall be valued separately and duty assessed under the tariff items regularly applicable thereto.

Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor;
Bearings, steering knuckle thrust;
Bushings, or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors and parts thereof, air;
Commutator copper segments; commutator insulating end rings;
Tapered discs of hot-rolled steel, with or without centre hole, for disc wheels;
Diaphragms for fuel and vacuum pumps;
Distributor rotors and cam assemblies;
Door bumper shoes;
Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals;

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
Gaskets of any material except cork or felt, composite or not, parts and materials therefor;					
Ignition contact points;					
Keys for shafting;					
Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof;					
Laminated composition plastic timing gear blanks;					
Lenses of glass for motor vehicle lamps and for light reflectors;					
Lock washers;					
Magnetic plugs;					
Metal frames for convertible soft tops;					
Permanent mould pistons for brake master cylinders;					
Piston ring castings in the rough, with or without gates and fins removed;					
Propeller shaft tubes of steel bonded by rubber;					
Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for but bodies;					
Shift control, electric, for two speed rear axles;					
Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof;					
Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies;					
Synchronizing cones or blocking rings for transmissions;					
Vacuum, hydraulic or air control assemblies and parts thereof;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				

Vulcanized fibre in sheets, rods,
strips and tubings;
Parts of all the foregoing;

All of the foregoing for use in
the manufacture or repair of goods
enumerated in tariff items
41106-1, 42400-1 and 43803-1, or
for use in the manufacture of
parts therefor:

Item 43806-1

When of a class or kind not made in Canada	Free	Free	30	Free	Free
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Ammeters;
Arm rests and wheel housing
lining of indurated fibre,
pressed to shape;
Axle housings, one piece welded,
machined or not, including parts
welded thereto;
Carburetors;
Chassis frames and steel shapes
for the manufacture therefor;
Cigar and cigarette lighters,
whether in combination with a
cigarette holder or not, in-
cluding base;
Composite frame and floor
structure of metal in the rough;
Control ventilator gear box;
Cylinder lock barrels, with or
without sleeves and keys there-
for;
Dash heat indicators;
Door opening weatherseal
retainers;
Engine speed governor units;
External ornaments unplated,
including name plates, letters
and numerals, but not including
finish or decorative mouldings;
Fluid couplings with or without
driveplate assemblies;

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
Gauges, gasoline, oil or air;					
Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings;					
Hinges, finished or not, for bodies;					
Horns;					
Instruments bezel assemblies, instruments board lamps; instru- ments panel, glove compartment, luggage compartment, hood com- partment and door step lamps and wire assemblies;					
Instrument board panels of moulded or laminated glass fibres and plastic;					
Locks, electric ignition, steering gear, transmission, or combinations of such locks;					
Mouldings of metal, with nails or prongs set in position, lead filled or not;					
Oil filter parts, namely: per- forated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes;					
Ornaments and identification plates of metal, unplated, not including finished or decora- tive mouldings;					
Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor;					
Purifiers for gasoline, including brackets and fittings therefor;					
Radiator shutter assemblies, automatic;					
Radiator water gauges;					
Radiator shells not plated nor metal finished in any degree;					
Reclining seat mechanisms;					
Shackles, bearing spring;					
Speedometers;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
Spring covers of metal and closing strips or shapes therefor;					
Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts;					
Steering wheels, rims and spiders therefor;					
Sun visor blanks of gypsum weatherboard;					
Swivel seat mechanisms;					
Tachometers, with or without tachographs, both electric and gear driven;					
Thermostatic controls;					
Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;					
Torque converters;					
Auxiliary transmission overdrive units and controls therefor;					
Universal joint ball assemblies;					
Windshield and window wipers;					
Parts of all the foregoing, including brackets, fittings and connections therefor;					

Item 43816-1

If the above articles are of a class or kind not made in Canada, and are for use in the repair of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or are for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	25	Free	Free
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APPENDIX II (CONT.)

<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
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- per cent -

Item 43816-1 (cont.)

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items ... 43816-1.

Air cleaners;
Axles, front and rear;
Bell or clutch housings for vehicles having a gross vehicle weight rating of over 19,500 pounds;
Brakes;
Brake drums;
Cast aluminum road wheels for rube type tires using rim sizes larger than twenty inches by eight inches and for tubeless type tires using rim sizes larger than twenty-two and one-half inches by eight and one-quarter inches;
Clutches;
Drive shafts;
Fuel pumps;
Hubs;
Hydraulic or fluid couplings;
Internal combustion engines over 348 cubic inches in displacement;
Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases, when the main assemblies are of a class or kind not made in Canada;
Magnetos;
Power dividers or transfer cases;
Rims for pneumatic tires;
Spring shrouds, spring seats, and spring anchor plates of metal for vehicles having a gross vehicle weight rating of over 19,500 pounds;

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
- per cent -					
Steel road wheels;					
Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over;					
Steering gears;					
Tandem axle suspensions, not to include springs;					
Transmission assemblies;					
Universal joints;					
Parts of the foregoing;					
All of the foregoing when of a class or kind not made in Canada, and					

Item 43821-1

For use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same or for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	27.5	Free	Free
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The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items...43821-1.

Item 43829-1

Parts, n.o.p., electro-plated or not, whether finished or not, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 42400-1 and 43803-1, including engines, but not including ball or roller bearings, wireless receiving sets, die castings of zinc, electric

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 43829-1 (cont.)</u>					
storage batteries, parts of wood, tires and tubes or parts of which the component material of chief value is rubber	Free	12.5	35	Free	9.2
Effective...1/1/87		9.2			
<u>Item 43910-1</u>					
Cars and trailers including house trailers, n.o.p., wheelbarrow, trucks, road or railway scrapers and hand carts	10	14.8	30	9.5	10.2
Effective...1/1/87		10.2		6.5	

Anchors for vessels:					
<u>Item 44013-1</u>					
Weighing forty pounds or over ..	Free	Free	Free	Free	Free

<u>Item 44062-1</u>					
Hinges entitled to entry under tariff item 35200-1, 35400-1 and 36215-1;					
Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1;					
Castings entitled to entry under tariff items 35400-1 and 39000-1;					
Forgings entitled to entry under tariff item 39200-1;					
Sealed-beam lamps entitled to entry under tariff item 44504-1;					
Microphones entitled to entry under tariff item 44536-1;					
Magnesium castings entitled to entry under tariff item 71100-1;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44062-1 (cont.)</u>					
Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44514-1, 44538-1, 44540-1 and 46200-1;					
Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41505-1, 41505-2, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44516-1, 44524-1, 44532-1, 44533-1, 47100-1 and 61815-1.					
All the foregoing when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of the goods enumerated in tariff item 44060-1 ...	Free	Free	27.5	Free	Free
<u>Item 44100-1</u>					
Guns, rifles, including air guns and air rifles not being toys; cannons, pistols, revolvers, or other firearms, n.o.p.; cartridge cases, cartridges, primers, percussion caps, wads or other ammunition, n.o.p.; bayonets, swords, fencing foils and masks; gun or pistol covers or cases, game bags, loading tools and cartridge belts of any material	10	16.7	30	Free	11.3
Effective...1/1/87		11.5			
<u>Item 44101-1</u>					
Muskets and parts thereof	Free	5.5	30	Free	5.5

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44200-1</u>					
Articles and materials which enter into the cost of manufacture of the goods enumerated in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40919-1, 40920-1, 40922-1, 40924-1, 40926-1, 40928-1, 40930-1, 40932-1, 40934-1, 40936-1, 40938-1, 40940-1, 40942-1, 40944-1, 40948-1, 40950-1, 40956-1, 42723-1, 43915-1 and 61810-1, when imported for use in the manufacture of the goods enumerated in the aforesaid tariff items, or in the manufacture of parts therefor, under such regulations as the Minister may prescribe	Free	Free	Free	Free	Free
<u>Item 44205-1</u>					
Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1, under such regulations as the Minister may prescribe	Free	Free	10	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44300-1</u>					
Apparatus, and parts thereof, for cooking or for heating buildings, not to include commercial food processing machines, namely, continuous pressure and atmospheric preheaters and cookers, and parts thereof, for sterilizing or for cooking or for both sterilizing and cooking food products in hermetically sealed containers	15	16.7	30	11	15
Effective...1/1/87	11.3	11.3		7.5	11.3
<u>Item 44300-2</u>					
Apparatus for cooking, designed for household use; parts thereof	15	20	30	13	15
Effective...1/1/87	12.5	12.5		8	12.5
<u>Item 44300-3</u>					
Apparatus for heating buildings, designed for household use; parts thereof	15	17.2	30	11	15
Effective...1/1/87	12.5	12.5		8	12.5
<u>Item 44325-1</u>					
Gas pressure regulators for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or for heating buildings, or for heating water, or for refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device; and parts thereof	Free	5	30	Free	5

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
- per cent -					
<u>Item 44512-1</u>					
Electric and galvanic batteries, n.o.p., and complete parts thereof, including separator walls of wood, cut to size or not	14.8	14.8	27.5	9.5	14.8
Effective...1/1/87	10.2	10.2		6.5	10.2
<u>Item 44514-1</u>					
Electric dynamos or generators and transformers, and complete parts thereof, n.o.p.	12.8	12.8	37.5	8.5	12.8
Effective...1/1/87	9.2	9.2		6	9.2
<u>Item 44516-1</u>					
Electric motors, and complete parts thereof, n.o.p.	12.8	12.8	37.5	8.5	12.8
Effective...1/1/87	9.2	9.2		6	9.2

Electric apparatus and complete parts thereof, n.o.p.:					
<u>Item 44524-1</u>					
Other than the following	14.8	14.8	30	9.5	14.8
Effective...1/1/87	10.2	10.2		6.5	10.2

Radio and television apparatus and parts thereof, n.o.p.:					
<u>Item 44533-1</u>					
Other than the following	Free	12.8	25	Free	9.2
Effective...1/1/87		Free			Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44536-1</u>					
Pick-up cartridges: microphones, including microphone stands; automatic record changers	6.8	6.8	25	4.5	6.8
Effective...1/1/87		5.5		3.5	5.5
<u>Item 44537-1</u>					
Parts and materials for use in the manufacture or repair of the goods enumerated in tariff items 44536-1, 44536-2 and 44536-3 ...	Free	Free	25	Free	Free
<u>Item 44538-1</u>					
Recorders, reproducers and dicta- tion recording and transcribing equipment using magnetizable tape as a recording medium; parts thereof, n.o.p.	10	10.8	25	7	10
Effective...1/1/87	8	8		5	8
<u>Item 44539-1</u>					
Tape transport mechanisms; parts thereof	Free	Free	25	Free	Free
<u>Item 44540-1</u>					
Loudspeakers; audio-frequency electric amplifiers; parts thereof, n.o.p.	Free	12.8	25	Free	9.2
Effective...1/1/87		9.2			
Except that in the case of audio- frequency electric amplifiers and parts thereof, for use in community antenna television transmission lines, that are the manufacture of the United Kingdom of Great Britain and Northern Ireland, the Channel Islands, the Isle of Man, or the Republic of Ireland, the Most- Favoured-Nation Tariff applies.					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				

Manufactures, articles or wares, of iron or steel or of which iron or steel or both are the component materials of chief value, n.o.p.:					
<u>Item 44603-1</u>					
Other than the following	10	14.8	35	9.5	10.2
Effective...1/1/87		10.2		6.5	
 <u>Item 44603-2</u>					
Locomotive beds or frames of steel, cast in one piece; tender frames of steel, cast in one piece; cast steel cradles for the rear ends of locomotive frames; cast steel truck frames and bolsters for engines, tenders and passen- ger coaches; platform castings for passenger coaches; all the foregoing, whether in the rough or semi-manufactured, for use on railway rolling stock					
	Free	4.6	35	Free	4
Effective...1/1/87		4			
 <u>Item 44603-4</u>					
Water heaters, gas or oil, de- signed for household use; parts thereof					
	10	15.6	35	10	12.5
Effective...1/1/87		12.5		8	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> ^(a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44607-1</u>					
Taps, cocks, valves, and similar devices, hand-operated and check, of iron or steel, which would otherwise be classified according to component material of chief value or finish thereon, used to control the flow of liquids, gases or solids; parts thereof	10	16.3	35	10	10.2
Effective...1/1/87		10.2		6.5	
<u>Item 45105-1</u>					
Latch needles	10	18.6	35	10	11.3
Effective...1/1/87		11.3		7.5	
<u>Item 45110-1</u>					
Needles, of any material or kind, n.o.p.	10	15	35	10	11.3
Effective...1/1/87		11.3		7.5	
<u>Item 46105-1</u>					
Safes including doors; doors and door frames for vaults; scales, balances and weighing beams of all kinds, n.o.p.	10	14.8	35	9.5	10.2
Effective...1/1/87		10.2		6.5	
<u>Item 46110-1</u>					
Parts of scales, finished or unfinished	Free	10	35	Free	10
<u>Item 46200-1</u>					
Instruments for observations, measurement, experimentation or demonstration in respect of					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 46200-1 (cont.)</u>					
natural phenomena, n.o.p.; photographic, mathematical and optical instruments, n.o.p.; speedometers, cyclometers and pedometers, n.o.p.; parts of all the foregoing	2.5	12.2	30	2.5	7.5
Effective...1/1/87		7.5		5	
<u>Item 46205-1</u>					
Cameras, n.o.p., complete parts thereof	5	10	30	5	7.5
Effective...1/1/87		7.5		5	
<u>Item 46210-1</u>					
Cameras, n.o.p., of a class or kind not made in Canada; complete parts thereof..... 3/6/80	5	15	30	5	-
<u>Item 46220-1</u>					
Cinematograph and motion picture cameras and camera blimps for use by professional motion picture producers having studios in Canada equipped for motion picture production; parts of the foregoing	Free	Free	15	Free	Free
<u>Item 46245-1</u>					
Optical and magnetic sound equipment;					
Dollies, or other mobile mounting units for motion picture cameras;					
Booms, without wiring, for use with microphones;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 46245-1 (cont.)</u>					
Motion picture editing equipment namely: film editing machines, film splicers, film synchro- nizers, film viewers, rewinds; Parts of the foregoing;					
All the foregoing when for use in the production of motion pictures by professional producers having studios in Canada equipped for motion picture production					
	Free	Free	15	Free	Free

Item 47800-1 (c)

Goods, specially designed for the use of disabled persons, desi- gnated by Order of the Governor in Council; parts of the fore- going	Free	Free	Free	Free	Free
The Governor in Council may make regulations prescribing terms and conditions on which goods may be imported under this tariff item.					

Item 47900-1

Materials and articles for use exclusively in the manufacture of the goods enumerated in tariff items 47600-1, 47605-1, 47805-1, 47810-1, 47815-1, 47820-1, 47826-1, 47830-1 and 47835-1	Free	Free	Free	Free	Free
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Machinery and apparatus for use
in exploratory or discovery
work in connection with oil or
natural gas wells or for the
development, maintenance, test-
ing, depletion or production of

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
such wells up to and including the wellhead assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include automotive vehicles or chassis on which the machinery and apparatus are mounted:					
<u>Item 49101-1</u>					
Belting and hose, wholly or partly of rubber, and fittings and accessories therefor whether attached or not;					
Casing centralizers, wall scratchers and scrapers, stop rings and cement baskets;					
Moulded or extruded rubber products, namely cementing plugs, protectors, wipers, swab rubbers, and rubber rollers for wireline guides and turnback units;					
Screens for shale shakers;					
Swaged nipples and bull plugs not exceeding 4 inches in outside diameter;					
Wellhead valves, not under 2 inch or over 3 inch nominal size, rated for service in working pressures up to and including 2,000 pounds per square inch W.O.G. (water, oil, gas), excluding check valves, pressure regulators, automatic safety valves and needle valves;					
Parts of all the foregoing	5	10	20	5	9.2
Effective...1/1/87		9.2		6	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 49102-1</u>					
Blow-out preventers;					
Crown blocks and travelling blocks;					
Elevators and elevator links;					
Fishing tools;					
Flanged casing heads;					
Masts or derricks for drilling, servicing or work-over rigs;					
Rotary tables;					
Screwed casing heads for surface casings exceeding 10 3/4 inches in outside diameter, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil, gas);					
Swivels;					
Well logging equipment;					
Well perforating equipment;					
Wellhead valves over 3 inch nominal size, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil, gas);					
Well-packers;					
Parts of all the foregoing	Free	Free	Free	Free	Free
<u>Item 49103-1</u>					
Drilling, servicing or work-over rigs, assembled or not;					
Draw works;					
Slush pumps;					
Motive power and drive groups for operating slush pumps, draw works or rotary table ...	Free	Free	Free	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 49110-1</u>					
Mud pumps over 1,000 h.p.; power turntables; 8-way rotary selector valves and actuators; air actuated dry clutches and mechanically actuated clutches; hydramatic brakes; parts of all the foregoing	Free	Free	Free	Free	Free

<u>Item 49217-1</u>					
Walking draglines, electrically operated, for use in open pit mining, and parts thereof	Free	Free	Free	Free	Free
<u>Item 49220-1</u>					
Materials for use in the manufac- ture of the goods specified in tariff items 49101-1, 49102-1, 49103-1, 49104-1, 49105-1, 49106-1, 49110-1, 49201-1, 49202-1, 49205-1, 49210-1, 49211-1, 49215-1, 49216-1 and 49217-1	Free	Free	Free	Free	Free
<u>Item 61000-1</u>					
Belting, n.o.p., not including single-ply belting wholly of textile fibres	7.5	19.1	27.5	7.5	17.5
Effective...1/1/87		17.5			
<u>Item 61800-1</u>					
Rubber cement and all manu- factures of rubber and gutta percha, n.o.p.	14.8	14.8	27.5	9.5	14.8
Effective..1/1/87	10.2	10.2		6.5	10.2

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 62300-1</u>					
Musical instrument cases, fancy cases or boxes of all kinds, fancy writing desks; parts of the foregoing	12.5	16.7	40	11	12.5
Effective...1/1/87	11.3	11.3		7.5	11.3

Item 69605-1

Apparatus, utensils and instruments (excluding glassware and excluding goods enumerated in tariff items 41100-1, 42700-1, 42700-2, 42700-3, 42700-4, 42700-5, 42701-1, or 42701-2) that are not available from production in Canada; parts of the foregoing	Free	Free	Free	Free	Free
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All the foregoing when for use

(a) directly in teaching or research by any of the following organizations, namely:

- (i) any elementary or secondary school, school for the handicapped, university, community college or seminary of learning in Canada,
- (ii) any educational or research organization named in Schedule B to the Financial Administration Act and any similar educational or research organization established by or under the authority of a provincial government,

APPENDIX II (CONT.)

<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
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- per cent -

- (iii) any non-governmental organization operating on a non-profit basis that is incorporated or established in Canada solely for educational purposes or solely for the purpose of carrying out research designed to benefit the public at large, and
- (iv) any school separately incorporated in Canada that offers instruction intended to provide individuals with the skills required for a trade or other gainful occupation or to increase skills or proficiency therein; or
- (b) in the conservation, restoration, exhibition, circulation or study of artifacts, specimens, records, works of art and library collections by any of the following organizations, namely:
 - (i) libraries, and
 - (ii) art galleries, archives, historical houses and sites, zoological gardens, planetaria, botanical gardens, aquaria, nature centres and other museums,

if the organization operates on a non-profit basis and offers its services to the public generally.

APPENDIX II (CONT.)

<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P. (a)</u>	<u>U.K. & Ire.</u>
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- per cent -

Section 105 of the Customs Act applies in respect of goods imported under this tariff item only during the period ending five years after the later of the date the goods were first acquired by an organization mentioned herein or the date the goods were entered for consumption.

The Minister may make such regulations as he deems necessary for the administration of this tariff item.

For the purpose of this tariff item, apparatus, utensils and instruments are not available from production in Canada if no manufacturer.

- (a) has, within his normal operational framework, the full range of technical and physical capabilities necessary for production in Canada of apparatus, utensils or instruments reasonably equivalent to those for which entry under this tariff item is sought; and
- (b) has produced in Canada apparatus, utensils or instruments reasonably equivalent to those for which entry under this tariff item is sought.

Item 71100-1

All goods not enumerated in this schedule as subject to any other rate of duty, and not

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u> (a)	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 71100-1 (cont.)</u>					
otherwise declared free of duty, and not being goods the importation whereof is by law prohibited	14.8	14.8	25	9.5	14.8
Effective...1/1/87	10.2	10.2		6.5	10.2

Duty shall not be deemed to be provided for by this item upon dutiable goods mentioned as "n.o.p." in any other tariff item.

When the component material of chief value in any non-enumerated article consists of dutiable material enumerated in this schedule as bearing a higher rate of duty than is specified in this tariff item, such non-enumerated article shall be subject to the highest duty that would be chargeable thereon if it were composed wholly of the component material thereof of chief value, such "component material of chief value" being that component material which exceeds in value any other single component material in its condition as found in the article.

 93819-1 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; residual products of the chemical or allied industries, n.o.p.; not including soap, nor pharmaceutical, flavouring, perfumery, cosmetic or toilet preparations:

APPENDIX II (CONCL.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.(a)</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 93819-1</u>					
Other than the following	10	14.1	25	9	12.5
Effective...1/1/87		12.5		8	

GOODS SUBJECT TO DRAWBACK FOR HOME CONSUMPTION

<u>Goods</u>	<u>When Subject to drawback</u>	<u>Portion of Duty Payable as drawback</u>
<u>Item 97044-1</u>		
Fire brick.	When used by producers of ingots, blooms, slabs and billets of iron or steel, in the construction or repair of blast furnaces, oxygen furnaces, blast furnace stoves, open hearth furnaces (including checker chambers) and soaking pit furnaces	100 p.c.
<u>Item 97045-1</u>		
Fire brick.	When used in the construction or repair of coke ovens	100 p.c.

- (a) Assuming that the GPT is still in existence in 1987, with rates calculated as at present.
- (b) Subject to an "availability" provision (see supra, p. 24, n. 1).
- (c) Item 47800-1 is inoperative until goods have been designated by Order of the Governor in Council. This Order will be published in the departmental D49 series as soon as it is effective. Until that time, no goods are to be entered under that item.

APPENDIX III

VALUE OF IMPORTS UNDER SPECIFICALLY REFERRED
AND RELATED TARIFF ITEMS, 1975-1981

A. REFERRED TARIFF ITEMS

<u>Tariff Item</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -							
19755-1	8,196	9,182	12,256	14,781	17,245	18,494	22,446
28105-1	29,749	24,670	30,922	36,161	52,158	60,139	54,075
38002-1	5,127	2,877	6,803	5,686	9,561	10,496	15,342
38003-1	6,244	3,223	4,212	7,049	12,559	12,169	12,253
41001-1	5,386	6,815	9,292	11,007	15,567	22,436	28,078
41002-1	47,752	63,211	70,093	71,605	93,979	132,425	122,034
41012-1(a)	23,756	22,458	26,579	39,731	35,871	63,125	101,777
41013-1	3,643	4,063	5,177	3,976	5,038	6,193	6,468
41014-1	55,859	76,579	117,775	74,315	74,866	132,926	85,008
41021-1(a)	13,899	24,155	11,882	10,020	12,179	25,331	20,309
41022-1	9,271	10,444	9,430	11,307	10,736	15,819	16,741
41023-1	14,484	16,949	22,739	16,731	22,397	28,623	29,813
41026-1	4,793	527	6,744	6,522	2,374	1,195	2,628
41027-1	137	200	2,027	831	532	193	1,147
41031-1	1,696	1,211	1,401	1,555	2,056	1,520	4,417
41032-1	209	282	627	1,185	275	967	1,371
41305-1	76,358	59,204	61,726	82,093	113,254	90,992	93,936
41700-1	892	1,290	370	719	631	869	2,108
42000-1	1,230	1,676	1,325	2,158	2,983	2,882	2,562
42100-1	163	453	235	422	282	349	302
42600-1	1,757	1,441	241	305	335	355	490
42761-1	1,192	890	1,009	7,717	8,898	2,022	754
42762-1	63,177	59,178	58,253	64,171	82,473	29,593	8,879
42765-1(a)	4,931	4,123	6,711	10,012	9,953	8,027	7,059
42865-1	18,425	12,269	14,159	17,969	24,124	26,727	30,624
42875-1	24	-	(b)	3	-	9	177
42880-1(a)	27	-	-	14	16	16	(b)
42885-1	39	12	10	1	30	90	22
43150-1	4,694	12,921	8,069	10,538	10,453	20,155	24,166
43155-1	1,669	1,198	1,172	1,419	2,866	3,096	3,783
43425-1(a)	(b)	44	4,382	107	9	98	25
43505-1	2,086	2,163	4,138	4,696	3,260	5,882	5,666
43510-1	23	263	46	13	541	183	125
43705-1	7,203	11,738	11,610	15,307	12,110	19,348	19,202
43710-1	19	3	9	1	-	8	15
43864-1(a)(c)	-	-	-	2,564	6,994	7,675	10,658
44025-1	40,999	47,001	54,729	60,924	69,493	88,596	92,034
44028-1	990	834	1,105	1,179	2,023	2,252	3,505

APPENDIX III (CONT.)

<u>Tariff</u> <u>Item</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -							
44125-1	23,021	26,206	25,845	28,163	29,490	28,522	30,908
44210-1	655	1,108	397	4,003	1,340	5,048	9,010
44315-1	-	6	-	9	(b)	125	(b)
44320-1	3,120	4,328	4,413	5,635	7,857	10,145	9,879
44524-2	2,427	2,344	2,511	3,052	3,986	5,791	5,925
44530-1	616	598	619	692	909	611	947
44532-1	71,203	78,271	99,979	129,861	180,320	210,277	283,532
44725-1	546	754	976	861	923	794	781
46111-1(a)(d)	-	-	-	41	593	483	139
46115-1	4,160	4,893	4,926	5,732	8,286	7,057	7,396
46218-1(e)	-	-	-	31	47	398	379
46246-1(e)	-	-	-	526	1,074	1,822	2,283
47825-1	1,793	1,628	2,165	2,710	3,370	3,987	4,479
47826-1	591	576	674	1,209	1,855	2,095	3,124
49104-1	15,197	22,916	25,092	37,797	53,777	89,008	108,700
49105-1	64,557	89,447	119,661	142,168	230,923	281,332	236,134
49201-1	1,550	1,656	1,895	1,866	2,767	4,246	4,915
49202-1	608	1,096	1,663	2,391	2,256	3,327	2,787
49210-1	1,928	2,226	4,477	8,619	3,204	4,963	10,355
49211-1	6,996	3,974	13,322	13,297	7,453	16,929	21,256
49215-1	5,760	15,982	4,925	7,007	6,223	9,994	12,147
49216-1	16,734	89,178	21,546	16,629	18,250	10,936	25,156

B. RELATED TARIFF ITEMS

<u>Tariff</u> <u>Item</u>	<u>Average</u> <u>1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -					
18100-1	22,355	31,642	37,788	35,112	37,342
19700-1	44,000	38,210	38,466	30,716	48,514
28100-1	16,935	14,390	20,666	27,398	29,889
28110-1	7,126	5,838	9,755	11,249	7,572
28205-1	6,340	5,226	7,527	8,386	8,036
28220-1	1,310	1,265	2,220	2,856	3,894
35200-1	70,105	86,427	112,059	120,919	128,656
36800-1	12,756	17,523	19,276	23,039	29,855
36900-1	1,434	2,142	2,898	2,747	2,675
38001-1	37,846	30,947	86,275	47,477	67,326
38001-2(f)	-	-	-	21,337	53,277
39101-1	20,151	26,294	30,709	33,964	31,845
39102-1	746	941	623	840	1,188

APPENDIX III (CONT.)

<u>Tariff</u> <u>Item</u>	<u>Average</u> <u>1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -					
39905-1	31,789	101,113	105,630	123,302	137,359
39910-1	8,442	22,387	32,228	36,984	37,333
40000-1	52,271	72,656	85,117	74,695	90,146
40000-2(f)	-	-	-	15,877	23,420
40113-1	9,176	7,243	12,127	12,117	15,118
40114-1	2,268	2,033	2,886	2,605	2,215
40924-1	149,937	169,768	226,270	228,386	249,986
40938-1	767,947	960,695	1,316,945	982,227	1,101,104
41003-1(f)	-	-	-	4,496	6,259
41011-1	13,158	11,414	16,201	22,591	21,572
41020-1(f)	-	-	-	108	116
41100-1	50,025	90,659	112,269	111,587	85,742
41105-1	13,896	23,877	20,151	13,049	7,313
41310-1	476	659	797	497	617
41417-1(f)	-	-	-	1,020,531	1,684,307
41417-2(f)	-	-	-	500,801	719,876
42505-1	9,602	9,311	8,744	15,219	16,388
42510-1	1,008	817	1,045	1,863	1,464
42515-1	724	485	646	513	595
42700-1	2,473,250	2,911,266	3,816,301	3,477,154	3,807,595
42700-6(f)	-	-	-	441,333	551,729
42701-1	73,303	408,337	544,746	673,337	711,379
42768-1	19,417	20,642	27,089	33,472	38,714
42805-1	61,557	74,361	105,094	34,125	32,961
42805-2(f)	-	-	-	39,596	45,109
42805-3(f)	-	-	-	52,930	58,460
42815-1	41,838	40,770	77,206	76,626	75,100
42816-1(g)	-	4,351	7,368	6,464	7,657
42817-1	8,999	18,660	18,431	20,593	27,107
42825-1	6,459	8,891	11,616	14,934	14,894
42830-1	8,497	14,860	14,431	11,635	12,534
42840-1	7,010	12,562	14,081	25,213	18,450
43120-1	32,304	46,553	51,439	63,643	69,389
43405-1	474	95	329	256	370
43410-1	1,974	1,938	1,079	622	1,058
43415-1	5,663	24,717	32,206	21,137	3,773
43715-1	1,853	2,183	2,907	4,461	4,392
43800-1	38,488	53,000	77,903	83,726	71,207
43803-1	625,041	976,398	1,006,045	1,478,686	2,057,202
43806-1(h)	46,969	65,400	82,384	73,699	98,505
43816-1(h)	32,653	41,844	56,415	49,299	65,394
43821-1(h)	85,657	138,037	176,363	172,504	193,249
43829-1	31,585	423,391	581,478	480,001	608,106

APPENDIX III (CONT.)

<u>Tariff Item</u>	<u>Average 1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -					
43910-1	100,269	84,513	95,682	69,430	69,893
44013-1	584	425	758	836	1,870
44062-1(f)	-	-	-	21,738	94,118
44100-1	29,031	40,523	39,550	40,447	38,735
44101-1	-	-	-	6	150
44200-1	173,636	178,304	305,487	269,416	314,935
44205-1(h)	91,335	135,224	161,568	163,101	253,148
44300-1	118,176	156,379	168,342	79,670	73,839
44300-2(f)	-	-	-	109,467	145,419
44300-3(f)	-	-	-	17,649	24,016
44325-1	1,033	1,295	1,893	5,051	4,742
44512-1	27,109	40,497	50,726	58,727	77,407
44514-1	92,686	93,050	122,432	74,736	84,845
44516-1	88,158	125,233	165,647	123,871	138,032
44524-1	397,278	560,403	663,785	612,852	689,950
44533-1	477,470	659,837	778,034	308,515	309,042
44536-1	28,324	49,780	49,536	17,594	14,495
44537-1	1,321	1,935	3,387	2,417	2,333
44538-1	80,064	113,675	142,459	136,703	213,598
44539-1	1,181	2,349	3,983	2,019	2,568
44540-1	59,284	98,431	114,318	110,501	122,692
44603-1	492,340	592,682	703,458	652,723	697,927
44603-2	42	59	196	130	62
44603-4(f)	-	-	-	840	1,976
44607-1(f)	-	-	-	83,766	117,919
45105-1	1,255	2,476	2,699	4,194	2,730
45110-1	3,394	3,829	4,929	5,244	5,640
46105-1	7,816	10,772	12,213	11,444	10,801
46110-1	4,945	6,205	6,920	7,254	5,113
46200-1	58,099	87,110	107,846	113,195	131,702
46205-1	7,043	7,480	7,867	101,726	113,162
46210-1(i)	44,527	71,767	74,768	4,721	-
46220-1	930	787	825	718	466
46245-1	6,993	16,527	10,403	12,977	9,098
47800-1(j)	-	-	-	-	-
47900-1	12,648	17,249	23,507	39,502	33,643
49101-1	2,581	4,544	7,404	9,212	6,619
49102-1	34,925	96,611	161,017	220,128	181,298
49103-1	14,148	48,712	88,984	108,295	56,490
49110-1(f)	-	-	-	2,062	2,861
49217-1(f)	-	-	-	11,476	11,278
49220-1	7,840	7,239	13,563	29,555	46,025

APPENDIX III (CONCL.)

<u>Tariff Item</u>	<u>Average 1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>
- \$'000 -					
61000-1	19,232	22,042	27,272	24,393	25,102
61800-1	59,235	81,369	101,494	98,353	118,939
62300-1	44,352	65,623	76,521	44,485	37,732
69605-1	187,791	247,282	278,373	278,287	215,288
71100-1	111,568	129,784	158,169	163,407	162,751
93819-1	109,561	163,257	192,057	219,122	243,905

- (a) Only part of this tariff item has been referred to the Board. The figures pertain to total imports under the entire item.
- (b) Imports valued at less than \$500.
- (c) Temporary tariff item introduced June 22, 1978.
- (d) Temporary tariff item introduced April 1, 1977.
- (e) Tariff item introduced April 1, 1977.
- (f) Tariff item introduced June 3, 1980.
- (g) Tariff item introduced April 11, 1978.
- (h) Tariff item for study under Phase II of the reference.
- (i) Tariff item deleted from Customs Tariff on June 3, 1980.
- (j) Tariff item introduced November 12, 1981.

Source: Statistics Canada.

APPENDIX IV

DOMESTIC PRODUCERS OF GOODS NOT PREVIOUSLY
IDENTIFIED AS "MADE IN CANADA"

The original Background Papers circulated by the Board prior to the public hearings in connection with the various groups of tariff items falling within the scope of Reference No. 157, contained listings of Canadian producers of goods encompassed by commodity classes judged, on the basis of a review of import data, to be relevant to the inquiry. The information on which these listings were based was supplied to the Board by the Department of Industry, Trade and Commerce and by knowledgeable members of the business community. In those instances where it was not known whether or not a particular commodity class was made in Canada, this was indicated by an "uncertain" designation in the Background Papers and, subsequently in the Staff Appraisals.

Following the publication of the Staff Appraisals, partly as a result of subsequent submissions to the Board and partly as a result of other additional information received, Canadian producers of some of these "uncertain" classes of goods were identified, while, in a number of instances, domestic manufacturers of commodities formerly designated as "not made" were also identified. It is this new, supplementary information about Canadian production which is summarized below. Attempts to verify this information have been made wherever possible. It should, however, be noted that the listing of Canadian producers with respect to individual commodity classes does not purport to be fully comprehensive.

A. ALPHABETICAL LISTING OF DOMESTIC PRODUCERS

1. AAF Ltd., Montreal, Que.
c.c.: 509-79-23
2. Airway Surgical Appliances Ltd., Ottawa, Ont.
c.c.: 672-99-39
3. Ajax Equipment Ltd., Winnipeg, Man.
c.c.: 543-29-29

4. B.C. Gearworks Ltd., Delta, B.C.
c.c.: 513-32-35*; 513-32-55*
5. Barber Industries, Calgary, Alta.
c.c.: 508-95-25; 521-03-20; 521-79-22; 521-79-89
6. Beales Steel Products Ltd., Langley, B.C.
c.c.: 521-31-15; 521-36-79; 522-75-20; 522-75-30; 522-75-90
7. Bobrick Washroom Equipment of Canada Ltd., Scarborough, Ont.
c.c.: 672-99-39
8. Bombardier Inc., Montreal, Que.
c.c.: 502-18-69; 502-18-79; 502-18-89; 502-99-18; 571-29-30;
571-29-90; 571-58-90
9. Bomem Inc., Vanier, Que.
c.c.: 707-15-20
10. Borsig Hartmann Valve Ltd., Calgary, Alta.
c.c.: 468-09-20; 468-19-36
11. Byron Jackson Division, Borg-Warner (Canada) Limited, Scarborough, Ont.
c.c.: 508-04-50*
12. C-Tech Ltd., Cornwall, Ont.
c.c.: 634-35-20
13. C-E Natco Limited, Calgary, Alta.
c.c.: 521-79-89
14. C.K. Steel & Machinery, Division of TIW Industries Ltd., Calgary, Alta.
c.c.: 509-40-15
15. Canada Valve Inc., Milton, Ont.
c.c.: 468-09-20; 468-09-50; 468-09-61; 468-09-69; 468-09-89;
468-19-20; 468-19-23
16. Canadian Co-operative Implements Limited, Winnipeg, Man.
c.c.: 546-25-10
17. Canadian General Electric Company Limited, Toronto, Ont.
c.c.: 502-09-88; 503-66-30; 503-67-40; 503-67-50; 503-67-60*;
503-69-43; 503-69-82; 503-69-83
18. Canadian Textile Machinery Ltd., Granby, Que.
c.c.: 527-29-51; 527-29-52; 527-29-55; 527-29-56; 527-29-57;
527-29-62; 527-29-88; 527-29-89; 527-99-75; 527-99-88

19. Canbar Products Limited, Waterloo, Ont.
c.c.: 529-27-89*
20. Carborundum Environmental Systems Canada Ltd., Mississauga, Ont.
c.c.: 509-85-49
21. Caterpillar of Canada Ltd., Mississauga, Ont.
c.c.: 521-36-30
22. Chicago Blower Canada Ltd., Winnipeg, Man.
c.c.: 507-99-35; 507-99-36
23. Choiniere, B.R., Ltd., Boisbriand, Que.
c.c.: 543-29-29
24. Christensen Diamond Products (Canada) Limited, Edmonton, Alta.
c.c.: 521-01-20; 521-01-30
25. City-Wide Scale Co. Ltd., Rexdale, Ont.
c.c.: 708-90-90; 709-49-90
26. Clark Equipment of Canada Ltd., St. Thomas, Ont.
c.c.: 521-36-30
27. Cooper-Chapman Limited, Weston, Ont.
c.c.: 509-69-89
28. Cooper Energy Services Ltd., Mississauga, Ont.
c.c.: 502-99-18; 507-36-32; 507-36-89
29. Cougar Tool (Div. of OPI Ltd.), Edmonton, Alta.
c.c.: 521-17-85; 521-19-39*
30. Craig's Machine Shop Ltd., Hartland, N.B.
c.c.: 521-31-15
31. Crosby Valve Ltd., Burlington, Ont.
c.c.: 468-44-19
32. Dominion Metalware Industries, Limited, The, Mississauga, Ont.
c.c.: 672-99-39
33. Dreco Ltd., Edmonton, Alta.
c.c.: 521-79-89
34. Dresser Canada Inc., Mississauga, Ont.
c.c.: 468-44-19
35. Drill Systems Inc., Calgary, Alta.
c.c.: 521-03-20

36. ESCO Limited, Burnaby, B.C.
c.c.: 519-39-45; 521-31-15
37. Envirotech Canada Ltd., Mississauga, Ont.
c.c.: 508-50-66*; 521-69-72*
38. FMC of Canada Limited, Woodstock, Ont.
c.c.: 513-15-46
39. Failing, George E., Supply Company Ltd., Edmonton, Alta.
c.c.: 521-03-20
40. Faster Oilfield Services Ltd., Nisku, Alta.
c.c.: 521-19-39*
41. Felco Industries Ltd., Concord, Ont.
c.c.: 469-99-89
42. Fisher & Porter (Canada) Limited, Downsview, Ont.
c.c.: 703-44-90
43. Foster Wheeler, Limited, Niagara-on-the-Lake, Ont.
c.c.: 509-40-35; 509-40-50
44. Gardner-Denver Canada Inc., Scarborough, Ont.
c.c.: 507-29-31
45. Gearmatic Co., A Division of Paccar of Canada Ltd., Surrey, B.C.
c.c.: 513-32-35*; 513-32-55*
46. General Motors of Canada Limited, Diesel Division, London, Ont.
c.c.: 502-25-89
47. Glassine Canada Inc., Quebec, Que.
c.c.: 359-20-40; 359-20-90; 359-99-35
48. Greening Donald Co. Ltd., Hamilton, Ont.
c.c.: 521-31-30; 521-31-40; 521-31-70; 521-39-68
49. Griffith Oil Tool Ltd., Edmonton, Alta.
c.c.: 521-19-39*
50. Guelph Engineering Company Limited, The, Guelph, Ont.
c.c.: 468-09-20; 468-09-50; 468-09-61; 468-09-65; 468-09-69;
468-09-89; 468-19-30*; 468-19-31*; 468-19-32*; 468-19-33*;
468-19-39
51. Haak Industries, Oakville, Ont.
c.c.: 511-99-20

52. Halpen Engineering (1978) Limited, Weston, Ont.
c.c.: 521-69-72
53. Hamilton Gear and Machine Company, Toronto, Ont.
c.c.: 504-40-41; 504-40-46; 504-40-51; 504-99-39
54. Harding Instruments Co. Ltd., Edmonton, Alta.
c.c.: 703-44-90
55. Harricana Métal Inc., Amos, Que.
c.c.: 519-39-45; 521-31-15
56. Hubert Industries, Rexdale, Ont.
c.c.: 672-99-39
57. IRD Mechanalysis Limited, Stoney Creek, Ont.
c.c.: 703-48-90
58. ITT Grinnell Division, ITT Industries of Canada Ltd., Toronto, Ont.
c.c.: 703-44-31; 703-44-90
59. Imax Systems Corporation, Toronto, Ont.
c.c.: 911-18-90
60. Ingersoll-Rand Canada Inc., Sherbrooke, Que.
c.c.: 507-36-32; 507-36-89; 521-69-72*
61. Inland Steel & Forgings Ltd., Winnipeg, Man.
c.c.: 546-25-10
62. International Harvester Canada Limited, Hamilton, Ont.
c.c.: 521-36-30; 541-99-89
63. Jacob Bros. Machine Works, Vancouver, B.C.
c.c.: 513-15-46
64. Jenkins Canada Inc., Lachine, Que.
c.c.: 468-09-20; 468-09-50; 468-09-61; 468-09-65; 468-09-69;
468-09-89; 468-19-20; 468-19-21; 468-19-22; 468-19-23;
468-19-24; 468-19-25; 468-19-26; 468-19-29; 468-19-30*;
468-19-32*; 468-19-33; 468-19-39; 468-29-20; 468-29-21;
468-29-22; 468-29-23; 468-29-24; 468-29-25; 468-29-26;
468-44-15; 468-44-21
65. Krupp Industries (Canada) Ltd., Edmonton, Alta.
c.c.: 521-39-89
66. Kutryk, E.A., Industries Ltd., Calgary, Alta.
c.c.: 508-95-25

67. Larsen & D'Amico Mfg. Ltd., Calgary, Alta.
c.c.: 521-79-42
68. Legrand Industries Ltd., Calgary, Alta.
c.c.: 508-95-25*; 521-79-22
69. Leitz, Ernst, Canada Limited, Midland, Ont.
c.c.: 709-93-11
70. Lift Systems, Vancouver, B.C.
c.c.: 521-79-22
71. Lock, J.H., & Sons, Limited, Toronto, Ont.
c.c.: 509-40-50
72. Massey-Ferguson Limited, Toronto, Ont.
c.c.: 541-99-89
73. McKay, Ralph, (Canada) Limited, Regina, Sask.
c.c.: 546-25-10
74. Muirhead Engineering Limited, Agincourt, Ont.
c.c.: 509-40-20
75. O&K (Orenstein & Koppel) Canada Limited, Dundas, Ont.
c.c.: 521-28-23; 521-28-54*; 521-39-89
76. OPI Ltd., Edmonton, Alta.
c.c.: 521-19-39*; 521-79-89
77. Perrin, Wm. R., Co. Limited, Ajax, Ont.
c.c.: 521-69-72*
78. Porta-Test Systems Ltd., Edmonton, Alta.
c.c.: 521-79-42; 521-79-89
79. Pumps & Power, Limited, Vancouver, B.C.
c.c.: 508-50-63; 508-50-66*
80. Robertson Custom Aids, Ltd., Scarborough, Ont.
c.c.: 512-24-90
81. Rolland Inc., St. Jerome, Que.
c.c.: 359-75-10
82. Seismic Drills International Ltd., Calgary, Alta.
c.c.: 521-17-41*
83. Smart Turner Limited, Hamilton, Ont.
c.c.: 508-04-50

84. Solar Turbines Canada, Edmonton, Alta.
c.c.: 502-40-29; 502-40-39
85. Stephens-Adamson, Division of Allis-Chalmers Canada Inc., Belleville, Ont.
c.c.: 521-39-89
86. Sweco Canada, Ltd., Toronto, Ont.
c.c.: 463-52-89
87. 3-L Filters Limited, Cambridge, Ont.
c.c.: 509-85-49
88. TRW Reda Pump Co., Calgary, Alta.
c.c.: 508-50-63
89. Tillsonburg Industries Div., T.P.S. Industries Inc., Tillsonburg, Ont.
c.c.: 521-17-41
90. Tri-Flo Industries, Calgary, Alta.
c.c.: 521-17-85
91. Tube-Lok Products Ltd., Delta, B.C.
c.c.: 519-39-45; 521-31-15; 521-36-79
92. Unispec, Markham, Ont.
c.c.: 672-99-39
93. Universal Industries Ltd., Lloydminster, Alta.
c.c.: 508-95-25
94. Velan Inc., Montreal, Que.
c.c.: 468-19-30; 468-19-31; 468-19-32*; 468-19-33*; 468-19-35;
468-44-15*; 468-44-19
95. Versatile Mfg. Co., Winnipeg, Man.
c.c.: 541-99-89
96. Wajax UEC Limited, Markham, Ont.
c.c.: 513-15-46
97. Western Rock Bit Company Limited, Calgary, Alta.
c.c.: 521-07-90
98. Westinghouse Canada Inc., Hamilton, Ont.
c.c.: 502-40-39; 502-40-89*; 503-67-40; 503-67-50; 503-67-60*
99. Wheelabrator Corporation of Canada Limited, Milton, Ont.
c.c.: 509-79-23

100. White-McKee Inc., Elmira, Ont.

c.c.: 543-29-29

101. Wilson Machine Co. Limited, LaSalle, Que.

c.c.: 504-40-41; 504-40-46; 504-40-51; 504-40-85

102. Wire Rope Industries Ltd., Pointe Claire, Que.

c.c.: 521-31-30; 521-31-40; 521-31-70; 521-39-68

B. NUMERICAL LISTING OF COMMODITY CLASSES

359-20-40 Paper, waxed and laminated, uncut
producer: 47

359-20-90 Paper, waxed, uncut, nes
producer: 47

359-75-10 Paper, printed or impregnated for laminates
producer: 81

359-99-35 Paper, glassine and greaseproof, converted
producer: 47

463-52-89 Wire cloth, woven wire screening, metal, nes
producer: 86

468-09-20 Valves, auto operator hydraulic controlled
producer: 10; 15; 50; 64

468-09-50 Valves, auto operator pneumatic controlled
producer: 15; 50; 64

468-09-61 Valves, auto operator elec motor controlled
producer: 15; 50; 64

468-09-65 Valves, auto operator solenoid controlled
producer: 50; 64

468-09-69 Valves, auto operator elec controlled, nes
producer: 15; 50; 64

468-09-89 Valves, auto operator controlled, nes
producer: 15; 50; 64

468-19-20 Valves, gate, iron, except power
producer: 15; 64

- 468-19-21 Valves, angle, iron, except power
producer: 64
- 468-19-22 Valves, globe, iron, except power
producer: 64
- 468-19-23 Valves, check, iron, except power
producer: 15; 64
- 468-19-24 Valves, butterfly, iron, except power
producer: 64
- 468-19-25 Valves, needle, iron, except power
producer: 64
- 468-19-26 Valves, ball, iron, except power
producer: 64
- 468-19-29 Valves, iron, nes except power
producer: 64
- *468-19-30 Valves, gate, steel, except power
producer: 50; 64; 94
- *468-19-31 Valves, angle, steel, except power
producer: 50; 94
- *468-19-32 Valves, globe, steel, except power
producer: 50; 64; 94
- *468-19-33 Valves, check, steel, except power
producer: 50; 64; 94
- 468-19-35 Valves, needle, steel, except power
producer: 94
- 468-19-36 Valves, ball, steel, except power
producer: 10
- 468-19-39 Valves, steel, nes, except power
producer: 50; 64
- 468-29-20 Valves, gate, brass or bronze, except power
producer: 64
- 468-29-21 Valves, angle, brass or bronze, except power
producer: 64
- 468-29-22 Valves, globe, brass or bronze, except power
producer: 64

- 468-29-23 Valves, check, brass or bronze, except power
producer: 64
- 468-29-24 Valves, butterfly, brass or bronze, except power
producer: 64
- 468-29-25 Valves, needle, brass or bronze, except power
producer: 64
- 468-29-26 Valves, ball, brass or bronze except power
producer: 64
- *468-44-15 Valves, blow-off, manual
producer: 64; 94
- 468-44-19 Valves, relief, nes
producer: 31; 34; 94
- 468-44-21 Valves, radiator/heating/, brass or bronze
producer: 64
- 469-99-89 Metal fabricated basic products, nes
producer: 41
- 502-09-88 Turbine, steam, stationary type, parts of
producer: 17
- 502-18-69 Engines, diesel, nes, over 500, to 1,000 bhp
producer: 8
- 502-18-79 Engines, diesel, nes, over 1,000, to 1,500 bhp
producer: 8
- 502-18-89 Engines, diesel, nes, over 1,500 bhp
producer: 8
- 502-25-89 Engines, gas, nes, over 50 brake horsepower
producer: 46
- 502-40-29 Turbine, gas, nes, 1,000 hp and less
producer: 84
- 502-40-39 Turbine, gas, nes, over 1,000 hp to 20,000 hp
producer: 84; 98
- 502-40-89 Turbines, gas, nes over 20,000 hp
producer: 98
- 502-99-18 Engines, diesel and semi-diesel, general purpose, accessories
producer: 8; 28

- 503-66-30 Motors, electric, AC over 1/3 hp to 1 hp incl.
producer: 17
- 503-67-40 Motors, electric, AC over 1 hp to under 20 hp
producer: 17; 98
- 503-67-50 Motors, electric, AC 20 hp to 200 hp incl.
producer: 17; 98
- *503-67-60 Motors, electric, AC over 200 hp
producer: 17; 98
- 503-69-43 Motors, electric, DC 20 hp to 200 hp incl.
producer: 17
- 503-69-82 Gear motors, electrical
producer: 17
- 503-69-83 Brake motors, electrical
producer: 17
- 504-40-41 Gear unit, helical, parallel concentric shaft
producer: 53; 101
- 504-40-46 Gear unit, multiple reduction, spiral bevel
producer: 53; 101
- 504-40-51 Speed increaser, gear type
producer: 53; 101
- 504-40-85 Speed reducer, planetary gear type
producer: 101
- 504-99-39 Power transmission equipment, pneumatic, nes
producer: 53
- 507-29-31 Compressor, air, portable, 1,400 cfm & over
producer: 44
- 507-36-32 Compressor, gas, stationary, parts of
producer: 28; 60
- 507-36-89 Compressor, gas, nes, parts of
producer: 28; 60
- 507-99-35 Fans, axial type, package unit
producer: 22
- 507-99-36 Fans, centrifugal type, package unit
producer: 22

- *508-04-50 Pump, centrifugal, multi-stage, single suction
producer: 11; 83
- 508-50-63 Pump, sump type, power
producer: 79; 88
- *508-50-66 Pump, submersible, portable, powered
producer: 37; 79
- *508-95-25 Pump jack
producer: 5; 66; 68; 93
- 509-40-15 Heat exchanger, shell & tube type, industrial
producer: 14
- 509-40-20 Heat exchanger, plate type, industrial
producer: 74
- 509-40-35 Heat exchanger, regenerative type, industrial
producer: 43
- 509-40-50 Heat exchanger, for cryogenic service, ind.
producer: 43; 70
- 509-69-89 Foundry machinery/equipment, nes
producer: 27
- 509-79-23 Filters, gas, electrostatic type, industrial
producer: 1; 99
- 509-85-49 Filter element, industrial, nes
producer: 20; 87
- 511-99-20 Conveyor, bulk, chain & flight type, parts
producer: 51
- 512-24-90 Elevator, passenger type, nes
producer: 80
- 513-15-46 Crane, for use on ships, boats or barges
producer: 38; 63; 96
- *513-32-35 Winch, hydraulic operated
producer: 4; 45
- *513-32-55 Winch, well logging type
producer: 4; 45
- 519-39-45 Logger attachment, for multi-purpose tractor
producer: 36; 55; 91

521-01-20 Core drill, diamond type, earth/rock
producer: 24

521-01-30 Core drill bit, diamond type
producer: 24

521-03-20 Rock drill, rotary type, carrier mounted
producer: 5; 35; 39

521-07-90 Rock drill bit, rotary, nes
producer: 97

*521-17-41 Well drilling machinery, water
producer: 82; 89

521-17-85 Pump, mud, oil well
producer: 29; 90

*521-19-39 Drilling machinery, mining, nes
producer: 29; 40; 49; 76

521-28-23 Backhoe, hydraulic, complete integral machine
producer: 75

*521-28-54 Shovel, power, excavating, hydraulic, over 1.5 cubic yards
producer: 75

521-31-15 Bucket, integral type backhoe, excavating
producer: 6; 30; 36; 55; 91

521-31-30 Backhoe, cable, complete integral machine, parts of
producer: 48; 102

521-31-40 Crane, excavating type, cable operated, parts of
producer: 48; 102

521-31-70 Shovel, excavating, cable type, parts of
producer: 48; 102

521-36-30 Loader, front-end, integral excavating wheel type
producer: 21; 26; 62

521-36-79 Loader attachment unit, front end, industrial, nes
producer: 6; 91

521-39-68 Loading machinery, excavating type, nes parts of
producer: 48; 102

521-39-89 Excavating machinery, nes
producer: 65; 75; 85

- *521-69-72 Filters, ore separation
producer: 37; 52; 60; 77
- 521-79-22 Pump, walking beam type, oil well
producer: 5; 68; 70
- 521-79-42 Separator/trap, oil and gas, oil field production
producer: 67; 78
- 521-79-89 Oil/petroleum field production machinery/equipment, nes
producer: 5; 13; 33; 76; 78
- 522-75-20 Ripper unit, construction/maintenance, tractor mounting
producer: 6
- 522-75-30 Scarifier, road breaking
producer: 6
- 522-75-90 Ripper unit, construction/maintenance, nes
producer: 6
- 527-29-51 Winding machinery, textile, drum type
producer: 72
- 527-29-52 Winding machinery, textile, precision type
producer: 72
- 527-29-55 Winding machinery, textile, automatic spoolers
producer: 72
- 527-29-56 Winding machinery, textile, travelling spindle winders
producer: 72
- 527-29-57 Winding machinery, textile, uniconer auto cone winders
producer: 72
- 527-29-62 Winding machinery, textile, skein winders
producer: 72
- 527-29-88 Winding and related machinery textile, nes, parts
producer: 72
- 527-29-89 Winding and related machinery textile, nes
producer: 72
- 527-99-75 Folding machines, cloth, textile industry
producer: 72
- 527-99-89 Textile industries machinery/equipment, nes
producer: 72

*529-27-89	Leather tanning/working industry machinery/equipment, nes producer: 19
541-99-89	Soil preparation, seeding machine, nes, new producer: 62; 72; 95
543-29-29	Hay handling machinery nes, new producer: 3; 23; 100
546-25-10	Edge tools & blades, agricultural producer: 16; 61; 73
571-29-30	Locomotives, yard switcher units producer: 8
571-29-90	Locomotives, nes producer: 8
571-58-90	Locomotives engines, nes producer: 8
634-35-20	Sonar and echo sounding equipment producer: 12
672-99-39	Bathroom accessories, nes producer: 2; 7; 32; 56; 92
703-44-31	Meters, water supply producer: 58
703-44-90	Fluid flow measuring/controlling instruments nes producer: 42; 54; 58
703-48-90	Mechanical motion/rota meas/control inst nes producer: 57
707-15-20	Spectrophotometers and colourimeters producer: 9
708-90-90	Balances and scales, nes producer: 25
709-49-90	Physical properties test/inspection equipment nes producer: 25
709-93-11	Photogrammetric instruments /except cameras/ producer: 69
911-18-90	Cameras, movie, nes producer: 59

* Denotes change in the range or specification of goods as previously published by the Board.

APPENDIX V

PARTIES MAKING SUBMISSIONS TO THE BOARD

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number(a)</u>
Algoma Steel Corporation, Limited, The, Sault Ste. Marie, Ont.	38002-1, 38003-1	6
Allis-Chalmers Canada Inc., Lachine, Que.	49215-1, 49216-1	2
American Biltrite (Canada) Ltd., Sherbrooke, Que.	41012-1 Ex.	1
Angus, R., Alberta Limited, Edmonton, Alta.	49215-1, 49216-1 42761-1, 42762-1	2 5
Atlas Polar Company Limited, Toronto, Ont.	42865-1, 42880-1 Ex., 42885-1 44025-1	4
Automotive Parts Rebuilders Association, Washington, D.C., U.S.A.	43864-1 Ex.	4
Beales Steel Products Ltd., Langley, B.C.	42761-1, 42762-1	5
BC Coal Ltd., Vancouver, B.C.	41013-1, 41014-1, 44530-1	1
Bombardier Inc., Montreal, Que.	42865-1, 42880-1 Ex., 42885-1 44025-1 43425-1 Ex., 43505-1, 43510-1	4 5
Bomem Inc., Vanier, Que.	44532-1	7
Bowering Customs Brokers (Douglas J. Bowering Ltd.), Fort Erie, Ont.	43864-1 Ex.	4
Canada Valve Inc., Milton, Ont.	General	1, 2
Canadian Association of Geo- physical Contractors, Calgary, Alta.	General 43150-1	1, 2 7
Canadian Association of Oilwell Drilling Contractors, Calgary, Alta.	44725-1 General 42865-1 43150-1, 43155-1, 44532-1	1 2 4 7

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Canadian Battery Manufacturers' Association, Toronto, Ont.	43710-1	5
Canadian Boilers Limited, Mississauga, Ont.	49104-1, 49105-1, 49215-1, 49216-1	2
Canadian Film & Television Association, Toronto, Ont.	46218-1, 46246-1	7
Canadian Gas Association, Don Mills, Ont.	49210-1, 49211-1	2
Canadian General Electric Company Limited, Toronto, Ont.	41013-1, 41014-1 49104-1, 49105-1, 49215-1, 49216-1 44210-1	1 2 4
Canadian Importers Association Inc., Toronto, Ont.	General	-
Canadian Institute of Steel Construction, Willowdale, Ont.	41022-1, 41023-1, 41031-1, 41032-1	1
Canadian Manufacturers' Association, The, Toronto, Ont.	General 42000-1	- 3
Canadian Marconi Company, Montreal, Que.	43155-1, 44028-1, 44532-1	7
Canadian Oilfield Manufacturers Association, Edmonton, Alta.	General	2
Canadian Petroleum Association, Calgary, Alta.	General	2
Canadian Recording Industry Association, Toronto, Ont.	46246-1	7
Canadian Textile Machinery Ltd., Granby, Que.	41305-1	3
Canadian Textiles Institute, Montreal, Que.	41305-1	3
Canadian Transport Commission, Railway Transport Committee, Hull, Que.	43705-1, 43710-1	5

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Canadian Water Well Association, Toronto, Ont.	41001-1, 41002-1, 44725-1 43150-1, 43155-1, 44532-1	1 7
Canbar Products Limited, Waterloo, Ont.	42000-1	3
Cantire Products Limited, Toronto, Ont.	43864-1 Ex.	4
Carborundum Company, The, Niagara Falls, N.Y., U.S.A.	28105-1	6
Carreau Oilfield Specialties Ltd., Edmonton, Alta.	49104-1, 49105-1	2
Champion Road Machinery Limited, Goderich, Ont.	42765-1	5
Chicago Blower Canada Ltd., Winnipeg, Man.	41013-1, 41014-1, 41022-1 41023-1	1
City-Wide Scale Co. Ltd., Rexdale, Ont.	44532-1, 46111-1 Ex., 46115-1	7
C.K. Steel & Machinery (Division of TIW Industries Ltd.), Calgary, Alta.	41026-1, 41027-1 General	1 2
Clarke, A.R., & Co. Limited, Toronto, Ont.	42000-1	3
Consumer and Corporate Affairs Canada, Director of Investi- gation and Research, Hull, Que.	General	-
Cooper-Chapman Limited, Weston, Ont.	41022-1, 41023-1	1
Cooper Energy Services Ltd. and Cooper Rolls Corporation, Mississauga, Ont.	49104-1, 49105-1, 49210-1, 49211-1, 49215-1, 49216-1 42865-1, 42880-1 Ex., 42885-1, 44025-1, 44210-1	2 4
Cyanamid Canada Inc., Willowdale, Ont.	19755-1	6

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number (a)</u>
Dominion Marine Association, Ottawa, Ont.	44025-1	4
Dominion Textile Inc., Montreal, Que.	41012-1 Ex.	1
Duplate Canada, Limited, Toronto, Ont.	44532-1	7
Everest & Jennings Canadian Limited, Concord, Ont.	47825-1, 47826-1	6
Fisher Scientific Limited, Ottawa, Ont.	44532-1	7
GEC Diesels Inc., Toronto, Ont.	42865-1, 42880-1 Ex., 42885-1, 44025-1	4
General Motors of Canada Limited, Diesel Division, London, Ont.	42865-1, 42875-1, 42880-1 Ex., 42885-1, 44025-1	4
Goodyear Canada Inc., Islington, Ont.	41012-1 Ex. 49215-1, 49216-1	1 2
Gould Manufacturing of Canada, Ltd., Industrial Battery Division, Fort Erie, Ont.	43705-1, 43710-1	5
Grant Corporation Limited, Calgary, Alta.	49104-1, 49105-1	2
Great Circle Trading Company Limited, Weston, Ont.	44028-1	7
Greening Donald Co. Ltd., Hamilton, Ont.	41013-1, 41014-1, 41022-1, 41023-1, 41031-1, 41032-1 49215-1, 49216-1	1 2
Haak Industries, Oakville, Ont. and Haak Mining Equipment Limited, Sydney, N.S.	41012-1 Ex.	1
Hamilton Gear and Machine Company (Division of Compro Limited), Toronto, Ont.	41022-1, 41023-1 49104-1, 49105-1	1 2

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Harding Instruments Co. Ltd., Edmonton, Alta.	49104-1, 49105-1, 49215-1, 49216-1 44532-1	2 7
Harnischfeger, P & H, Scarborough, Ont.	41013-1, 41014-1	1
Honeywell Limited, Scarborough, Ont.	44320-1, 44524-2, 44532-1	7
Howe Richardson Scale Company of Canada Ltd., Pointe Claire, Que.	46115-1	7
Imax Systems Corporation, Toronto, Ont.	46246-1	7
Ingersoll-Rand Canada Inc., Sherbrooke, Que.	42865-1, 42875-1, 42880-1 Ex., 42885-1, 44025-1, 44210-1	4
IRD Mechanalysis Limited, Stoney Creek, Ont.	44532-1	7
Jarvis Clark Company Limited, North Bay, Ont.	41001-1, 41002-1, 41013-1, 41014-1	1
Lakefield Arms Ltd., Lakefield, Ont.	44125-1	6
Langley Water Wells Ltd., Langley, B.C.	41001-1, 41002-1	1
Litton Systems Canada Limited, Rexdale, Ont.	44028-1	7
Mabit, R., Inc., Verchères, Que.	44532-1	7
Machinery & Equipment Manufac- turers' Association of Canada, Ottawa, Ont.	General 49215-1, 49216-1	1 2
Machinery & Equipment Manufac- turers' Association of Canada (Gear Products Section), Ottawa, Ont.	41022-1, 41023-1 49104-1, 49105-1, 49215-1, 49216-1	1 2
Measurex (Canada) Ltd., Longueuil, Que.	44532-1	7

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> (a)
Midwest Power Products, Winnipeg, Man.	42865-1, 42880-1 Ex., 42885-1, 44025-1	4
Milltronics Ltd., Peterborough, Ont.	41013-1, 41014-1 46115-1	1 7
Mining Association of Canada, The, Ottawa, Ont.	General 43505-1	1 5
Railway Association of Canada, The, Montreal, Que.	43705-1, 43710-1	5
Reed Tubular Products Company (A Division of Reed Tool Company of Canada, Limited), Edmonton, Alta.	49104-1, 49105-1	2
Refractories Association of Canada, The, Oakville, Ont.	28105-1	6
Robertson Custom Aids Ltd., Scarborough, Ont.	47825-1, 47826-1	6
Romark Ltd., Edmonton, Alta.	44532-1	7
SAFT Batteries Limited, Valleyfield, Que.	43705-1, 43710-1	5
Sandvik Canada Corp., Montreal, Que.	41001-1, 41002-1	1
Seismic Drills International Ltd., Calgary Alta.	41001-1, 41002-1	1
Silonex Inc., Montreal, Que.	General	-
Simplex International Time Equipment Co. Ltd., Mississauga, Ont.	44532-1	7
Solar Turbines Canada (International Harvester Company of Canada, Ltd.), Edmonton, Alta.	49104-1, 49105-1, 49210-1, 49211-1, 44210-1	2 4

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Steel Producers:	General	1
Algoma Steel Corporation,	28105-1	6
Limited, The, Sault Ste. Marie,	44532-1, 46115-1	7
Ont.; Atlas Steels, A Division		
of Rio Algom Limited, Welland,		
Ont.; Dofasco Inc., Hamilton,		
Ont.; Stelco Inc., Hamilton,		
Ont.; Sydney Steel Corporation,		
Sydney, N.S.		
Stephenson, Peter, & Associates	General	2
Ltd., Edmonton, Alta.		
Syncrude Canada Ltd., Edmonton,	49215-1, 49216-1	2
Alta.		
Tanners' Association of Canada,	42000-1	3
Kleinburg, Ont.		
Taylor Tools, Oklahoma City,	General	1, 2
Ok, U.S.A.		
Technical Aids & Systems for	47825-1, 47826-1	6
the Handicapped Inc.,		
Toronto, Ont.		
Tokyo Electric Canada Ltd.,	44532-1	7
Rexdale, Ont.		
Toledo Scale (Division of Reliance	44532-1	7
Electric Limited), Mississauga,		
Ont.		
Toro Company, The, Minnetonka,	42761-1, 42762-1	5
Minn., U.S.A.		
Unilok (The Belting Division of	41012-1 Ex.	1
Georgia Duck & Cordage Mill),		
Scottdale, Ga., U.S.A.		
Union Carbide Canada Limited,	41013-1, 41014-1, 41021-1 Ex.,	1
Toronto, Ont.	41022-1, 41023-1, 41031-1, 41032-1	2
	49210-1, 49211-1, 49215-1, 49216-1	3
	42600-1	5
	43705-1, 43710-1	6
	19755-1, 28105-1	7
	44532-1	

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Uniroyal Ltd., Kitchener, Ont.	41012-1 Ex.	1
Volcano Inc., St-Hyacinthe, Que.	49104-1, 49105-1	2
Volkswagen Canada Inc., Scarborough, Ont.	43864-1 Ex.	4
Ward-Beck Systems Ltd., Scarborough, Ont.	46218-1, 46246-1	7
Western Rock Bit Company Limited, Calgary, Alta.	41001-1, 41002-1	1, 2
Westinghouse Canada Inc., Hamilton, Ont.	44210-1	4
Wilson Machine Co. Limited, La Salle, Que.	41022-1, 41023-1 49104-1, 49105-1	1 2
Wire Rope Industries Ltd., Pointe Claire, Que.	41013-1, 41014-1 49215-1, 49216-1	1 2

(a) The numbers refer to:

- 1 - Machinery and equipment for use in the exploration, handling or primary processing of natural resources
- 2 - Machinery and apparatus for use in the development of resources of oil, natural gas, potash or rock salt
- 3 - Special purpose plant machinery
- 4 - Engines and parts
- 5 - Off-highway vehicle accessories and railway rolling stock
- 6 - Miscellaneous goods I
- 7 - Measuring and precision instruments, recording apparatus and control devices

APPENDIX VI

REFERENCE NO. 157

AN INTERIM REPORT OF AN INQUIRY BY THE TARIFF BOARD
RESPECTING TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA:
FIRE-BRICK AND RELATED PRODUCTS

INTRODUCTION

In his letter of reference dated August 20, 1979, the Minister of Finance directs the Tariff Board to study and report on certain items in the Customs Tariff under which the tariff classification of a product depends on the made-in-Canada status of the goods. The Minister indicates that the review "should encompass not only the tariff and drawback items containing 'made in Canada' or 'not made in Canada' clauses but also any other tariff items which the Board considers relevant to its inquiry".

The tariff items specifically referred to the Board are listed in two annexes to the letter of reference. Among the items included in Annex I, for which a report is requested not later than January 1, 1983, is item 28105-1 relating to fire-brick, n.o.p., of a class or kind not made in Canada, when imported for certain specified uses. A public hearing in relation to this and certain other referred tariff items (collectively designated as Group 6: Miscellaneous Goods I of Reference No. 157) was held at Ottawa commencing on December 8, 1980.

Some time after the reference was instituted, but before the public hearing in December 1980, The Refractories Association of Canada approached the Department of Finance with a view to obtaining a complete revision of the tariff schedule relating to fire-brick and other refractory products. Because this request impinged upon Reference No. 157, it was decided, in discussions between the Department of Finance and the Tariff Board, that the Board would take cognizance of the representations of the Association and present an interim report at an early date, following which the Department would be in a position to take any further necessary action. When it was realized that certain issues concerning the administration of the existing items relating to fire-brick were to come before the Board, sitting in its quasi-judicial rather than advisory capacity, in connection with Appeal No. 1571 (Ersco Canada Limited v The Deputy Minister of National Revenue, Customs and Excise), it was decided to defer submission of the interim report until the appeal had been heard and judgment rendered. The appeal was heard on June 16, 1981, and the Board's declaration was issued on August 11, 1981. At time of writing, the period has not yet expired in which appeals from the Board's decision to the Federal Court of Canada may be filed on a point of law.

THE PRODUCTS

The term "fire-brick" is used to describe rigid refractory products produced from fire-clay or other mineral-based mixtures or other materials with a high melting point. Refractory products are produced in five stages: the materials are mixed into a paste or powder, shaped as nearly as possible into the final form, dried, fired and finished. Refractory products are so called because the materials used and the process of manufacture impart to the finished goods special qualities of resistance to heat, abrasion and/or corrosion. Consequently, the same products (or products similar to those used in heat-resistant structures such as blast furnaces, ovens and other plant for the metallurgical, chemical, ceramic or glass industries) are also used in the construction of silos and other structures where abrasion or corrosion rather than heat is the problem.

Refractory specialties are products such as mortars, castables, plastic refractories, ramming mixes and gunning mixes which are used in conjunction with, or in substitution for, fire-brick. They may be mechanically moulded, cast in situ in the same manner as concrete, rammed behind rigid forms or emplaced with pneumatic gunning equipment. They are usually supplied in containers such as drums, cartons or bags. More recently, ceramic fibres, in the form of batts, blankets, boards or cloth, have been similarly used.

THE INDUSTRY AND THE MARKET

The Refractories Association of Canada claims that its members produce nearly all the fire-brick and refractory specialties that are made in Canada. The members also import the aforementioned goods, to supplement their individual lines. The only non-member manufacturer to make representations to the Board was Union Carbide Canada Limited, which makes some types of carbon fire-brick in Canada and imports others from the United States.

The Canadian market for fire-brick is quite substantial, with about two-thirds (by value) of domestic consumption being met by imports. Somewhat more than one-third of Canadian production is exported. In 1977, the last year for which non-confidential production data are available, production amounted to 109,300 tons, valued at \$35,976,000, of which 44,838 tons, valued at \$13,017,000, were exported. Imports amounted to 267,553 tons, valued at \$49,846,000, so that the total domestic disappearance (unadjusted for inventory changes) was 332,015 tons valued at \$72,805,000. Imports exceeded exports, in value terms, in a ratio of nearly 4 to 1. Similar relationships existed between the various figures during the preceding four years. It is notable that the average values per ton in 1977 were: domestic production, \$329; imports, \$186; exports, \$290. Canadian production would appear to be concentrated on the more expensive products.

It is more difficult to determine precise figures for refractory specialties. In this case, it would appear that of the total supply available, about two-thirds is domestic. However, in 1977, the last year for which non-confidential production data are available, exports accounted for more than 20 per cent of domestic production and were about one-half of the value of imports. In the five years from 1973 to 1977, the share of the domestic market held by imports varied between 27 and 36 per cent.

THE TARIFF ITEMS

The following tariff items relate to fire-brick:

28100-1 Fire brick containing not less than ninety per cent of silica; magnesite fire brick or chrome fire brick; other fire brick valued at not less than one hundred dollars per one thousand, rectangular shaped, the dimensions of each not to exceed one hundred and twenty-five cubic inches, for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment

All Tariffs: Free (M.F.N. rate bound under GATT)

28105-1 Fire brick, n.o.p., of a class or kind not made in Canada, for use exclusively in the construction or repair of a furnace, kiln, or other equipment of a manufacturing establishment

B.P., M.F.N., G.P. and U.K. & Ireland Tariffs: Free (MFN rate bound under GATT)

General Tariff: 15 p.c.

28110-1 Fire brick, n.o.p.

B.P. and G.P.(a) Tariffs: 5 p.c.

M.F.N. Tariff - 1/1/81 : 9.2 p.c.

- 1/1/87 : 6.8 p.c. (bound under GATT)

General Tariff : 22.5 p.c.

U.K. & Ireland - 1/1/81 : 6.8 p.c.

In addition, there are two relevant drawback items:

97044-1 Fire brick when used by producers of ingots, blooms, slabs and billets of iron or steel, in the construction or repair of blast furnaces, oxygen furnaces, blast furnace stoves, open hearth furnaces (including checker chambers) and soaking pit furnaces

Drawback of duty: 100 p.c.

97045-1 Fire brick when used in the construction or repair of coke ovens

Drawback of duty: 100 p.c.

(a) If the G.P. Tariff still exists in 1987 and is determined as at present, the rate will be 4.5 p.c.

Tariff item 28100-1 applies to all fire-brick containing not less than 90 per cent of silica, and all magnesite or chrome fire-brick, regardless of use. Under item 28100-1, free entry is also accorded to all other fire-brick meeting certain requirements as to value, shape and size, provided that it is "for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment." The same proviso applies to free entry accorded to fire-brick, n.o.p., of a class or kind not

made in Canada, under item 28105-1. Thus, fire-brick containing not less than 90 per cent of silica and magnesite fire-brick or chrome fire-brick are not dutiable. Except for the General Tariff rate under item 28105-1, other types of fire-brick are dutiable only if they are not for the uses prescribed in the latter part of items 28100-1 and 28105-1, or, if they are to be so used, they are of a class or kind made in Canada and also fail to meet the requirements as to size, shape and value set forth in item 28100-1. In any case, dutiable products used in the coke industry or in the iron and steel industry are eligible for drawbacks of the duty paid. The net result is that between 1975 and 1980, the average annual rate of duty on all imports of fire-brick was between 1.0 and 1.5 p.c., and this would be reduced by the drawbacks.

The precise meaning of the nomenclature used in the fire-brick items has from time to time been questioned by customs administrators and other interested parties. The most restrictive interpretation of the word "fire" in the term "fire-brick" would limit the item to refractory products made from fire-clay used for heat-resistant purposes. Other approaches would allow the term "fire-brick" to be applied to any refractory product made from fire-clay regardless of use, or to any heat-resistant refractory regardless of composition. The broadest possible interpretation would allow the inclusion of all refractory products made of the materials used to make fire-brick, whether or not they themselves are to be used for heat-resistant, as well as abrasion-resistant, purposes. With regard to the word "brick", the most restrictive view would limit the meaning of the term "fire-brick" to parallelepiped-shaped products similar to normal building bricks. However, in order to build the structures made from fire-brick, wedge-shaped, cylindrical, semi-cylindrical and other odd-shaped bricks are also required. It is understood that under existing tariff provisions all shapes are admitted under the fire-brick items; the distinction is significant, however, with respect to the last clause of item 28100-1, which restricts free entry for the appropriate bricks to those which are rectangular-shaped. If the goods are held to be of a class or kind made in Canada, other shapes are dutiable, as "fire brick, n.o.p.", under item 28110-1.

Tariff items 28100-1 and 28105-1 include the end-use provision "for use exclusively in the construction or repair of a furnace, kiln or other equipment of a manufacturing establishment". At issue in Appeal No. 1571 was the proper classification of certain aluminum oxide ceramic tiles and bricks which were originally understood to have been imported for use as abrasion-resistant liners for chutes or ducts. The Deputy Minister classified the goods under tariff item 71100-1 ("all goods not enumerated ..."); the appellant contended that they were "fire brick ... of a class or kind not made in Canada, for use in the construction or repair of ... other equipment of a manufacturing establishment", as described in tariff item 28105-1.

Prior to the hearing of the appeal, it was agreed between the parties that, regardless of use, the products were properly classifiable as "fire-brick", and not as "unenumerated articles". It was further agreed that they were of a class or kind not made in Canada. It was also determined that some of the imported goods were in fact used in heat-resistant structures in manufacturing establishments and, therefore, were properly classifiable under tariff item 28105-1. It was also agreed that where the end use could not be

established, the proper classification was under item 28110-1. The only issue before the Board, therefore, was whether the term "other equipment" included abrasion-resistant equipment as well as heat-resistant equipment, allowing the goods to fall under item 28105-1 rather than item 28110-1.

In its declaration dated August 11, 1981, the Board, in allowing the appeal, found that tiles used for either the heat-resistance or abrasion-resistance requirements of manufacturing establishments meet the end-use qualification in item 28105-1 and are therefore classifiable thereunder. The effect of the decision is to require the classification of fire-brick used for any purpose in a manufacturing establishment under tariff item 28105-1. (The declaration of the Board is subject to appeal to the Federal Court of Canada on a question of law, within sixty days).

The refractory specialties cited above are classified under the following tariff items, all of which have M.F.N. rates bound under GATT:

28205-1 Manufactures of clay or cement

<u>Tariff</u>	<u>Rates</u>	
	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P. & M.F.N.	11.4 p.c.(a)	8.0 p.c.(a)
G.P.	7.5 p.c.	5.0 p.c.(b)
General	22.5 p.c.	22.5 p.c.

28220-1 Hydraulic cement concrete mixes, wet or dry

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P., M.F.N. & G.P.	Free(a)	Free(a)(b)
General	22.5 p.c.	22.5 p.c.

71100-1 All goods not enumerated in this schedule as subject to any other rate of duty ...

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P.	15.0 p.c.(a)	10.2 p.c.
M.F.N.	15.7 p.c.	10.2 p.c.(a)
G.P.	10.0 p.c.	6.5 p.c.(b)
General	25 p.c.	25 p.c.

93819 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; ...

93819-1 Other than the following

<u>Tariff</u>	<u>Jan. 1, 1981</u>	<u>Jan. 1, 1987</u>
B.P.	10 p.c.	10 p.c.
M.F.N.	14.4 p.c.	12.5 p.c.
G.P.	9.5 p.c.	8 p.c.(b)
General	25 p.c.	25 p.c.
U.K. & Ireland	12.5 p.c.	12.5 p.c.

(a) Rate applied to U.K. and Ireland.

(b) Assuming that the G.P.T. is still in effect, with rates calculated as at present.

Tariff item 28205-1 is applicable to specialties manufactured essentially from fire-clay. Item 28220-1 applies to refractory products containing cement. Products having a base other than fire-clay or cement and with a chemical binder to make them air setting, are classified under item 93819-1, while any refractory specialties that do not fit under any of the other items fall into item 71100-1.

The Tariff Board's decision on Appeal No. 1097 (Canadian Titanium Pigments Limited), published under date of July 28, 1975, held that refractory cements are properly admissible under item 28220-1. Prior to that decision, Customs and Excise had held that item 28220-1 applied to those cement mixes which contained only inactive aggregates. Refractory cements contain active aggregates, the chemical reaction of which to heat imparts the heat-resistant qualities. Such goods were previously held to be dutiable under either item 93819-1 or item 28205-1. Thus, at the time item 28220-1 was bound under GATT, in the Kennedy Round, no refractory products were held to be classified under the item.

REPRESENTATIONS

As noted earlier, The Refractories Association of Canada has placed before the Board representations already made to the Department of Finance respecting fire-brick and refractory specialties. The Association is proposing that a single item be created for refractory fire-brick for heat-resistant purposes, and that a new item be created for refractory specialties, drawing them from the items set forth above. Proposals for rates of duty are made only with respect to the M.F.N. Tariff. The proposed items and rates of duty are as follows:

Fire-brick - Rigid refractory (fire-brick), regardless of shape or size or chemical composition, designed for use in the construction or repair of furnaces, boilers, incinerators, kilns or other heat enclosures, n.o.p.

M.F.N. rate: Free

Specialties - Refractory specialties, including mortars, castables, plastic refractories, ramming mixes and gunning mixes, n.o.p.

M.F.N. rate of 11.9 p.c. (in 1980) to be reduced, in the same stages as the rate under item 28205-1, to 8 p.c. by 1987

With regard to fire-brick, the Association seeks to eliminate (i) the "obsolete provision" of item 28100-1 which has the effect of making distinctions between different sizes and shapes of product used for the same purposes, and (ii) the end-use restrictions of items 28100-1 and 28105-1 which implicitly exclude fire-brick used for such structures as municipal incinerators, boilers in non-manufacturing establishments and furnaces and flues in apartment buildings or commercial developments.

Stelco Inc. on behalf of itself and four other firms in the steel industry, namely Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dominion Foundries and Steel Ltd., and Sydney Steel Corporation, seeks continued free entry for fire-brick of a class or kind not made in Canada. It is suggested that this could best be accomplished by an eo nomine listing of made-in-Canada kinds of fire-brick, together with a remission programme for goods not available from Canadian production. At the public hearing, a spokesman for Lake Ontario Steel indicated that his firm concurs in the views expressed. In the steel companies' submission, no account has been taken of the existing drawback items. However, as the proposal of the Refractories Association seems to meet the needs of the steel industry, the representations of the latter would appear to require no further specific consideration.

Union Carbide Canada Limited objects to the Association's proposal for fire-brick on the ground that it would encompass carbon and graphite fire-brick manufactured by the company, with respect to which it seeks to retain protection. It requests that the proposed fire-brick item be modified to exclude products containing more than 85 per cent carbon or 85 per cent graphite. Although the protection enjoyed by the company is undercut by the drawback items, it wishes to continue to enjoy such protection as has been available to it in the past.

After the public hearing, the Board received a letter from the Carborundum Company in the U.S.A., requesting free entry for the fire-brick it now exports to Canada. The company states that it is primarily concerned with refractory products of high alumina content (78 p.c. or more) which are used primarily for their abrasion-resistant capabilities. In its letter, the company suggests that these products were entering under tariff item 28105-1.

In view of the manner in which the item was administered prior to Appeal No. 1571, this classification is open to question. However, the appeal decision makes the issue irrelevant and enables the company's concern to be met by a revision of the proposal of the Refractories Association.

The new tariff provision for fire-brick, proposed by the Refractories Association, would encompass all goods admissible under item 28105-1 as administered prior to the decision on Appeal No. 1571, and probably virtually all goods under item 28100-1. It would also draw goods from item 28110-1. Further, it would eliminate certain obsolete terminology now used in item 28100-1 (all kinds of fire-brick now meet the value criterion), and would remove the need for chemical analyses or, indeed, for otherwise distinguishing between the physical characteristics of different types of fire-brick used for heat-resistant purposes. The wording proposed by the Association, with respect to end use, might prove a little restrictive, but could easily be modified to cover all heat-resistant uses. The proposed free rate of duty is logical in view of the minimal average rate now in effect.

With respect to refractory specialties, the Association seeks to regain the protection on refractory cements lost as a result of the Board's decision in 1975 in connection with Appeal No. 1097. It is the Association's contention that it was never intended that such goods be covered by duty-free item 28220-1. In reaching its decision on the appeal, the Board, of course, could not take into account the intent of the law, but had to interpret the wording as it existed. It is the Board's view that it would be inappropriate at this time to make any comment on this subject of intent. As a quid pro quo for the restoration of protection on the refractory cements, the Association is willing to surrender part of the protection it now enjoys under items 71100-1 and 93819-1, as well as the minimal protection it has on fire-brick. The 8 p.c. rate proposed for 1987 appears to have been based on an unweighted arithmetic average of the rates that will then be applicable under the M.F.N. Tariff under the four items:

28205-1	8.0 p.c.
28220-1	Free
71100-1	10.2 p.c.
93819-1	<u>12.5 p.c.</u>
	30.7 p.c. - average 7.675 p.c.

As 8 p.c. is also the final rate for item 28205-1, the Association proposes that the new item have staged rates equal to those for that item. As indicated later, this presents certain difficulties for the years 1981, 1982 and 1983.

Using the best (confidential) data available, the Board has calculated the average annual rate of duty on the products to be covered by the proposed new item, basing import values on the years 1975 to 1979 and assuming entry under the applicable existing items at the M.F.N. rates to be in effect in 1987. The rates thus calculated vary between 10.3 p.c. and 11.4 p.c. On this basis, a case could have been made for a rate higher than the 8 p.c. proposed by the Association.

On behalf of the steel industry, Atlas Steels questions the intent and meaning of the proposed item for refractory specialties. It is pointed out that the use of the word "including" would leave the item open to cover any number of other products. In particular, the question is posed as to the possible application of the item to ceramic fibres made from fire-clay, in the form of batts, blankets, boards, cloth, etc., used in heat-resistant structures where abrasion-resistance is not also a factor. These materials now enter under item 71100-1. It is suggested that the intention of the Refractories Association could be met by an item worded:

Refractory and heat-insulating mortars, ramming and gunning mixes, castables and plastic refractories, n.o.p.

No reasons have been advanced as to why ceramic fibre material should not be included in such a provision. Neither party has indicated any reason for the "n.o.p.".

CONCLUSIONS

The nomenclature proposals of The Refractories Association of Canada have much to recommend them as tending to simplify the administration of the Customs Tariff. However, in view of the other representations received, and the decision on Appeal No. 1571, some modifications appear to be required.

The proposed item for fire-brick for heat-resistant purposes would cover such brick regardless of size, shape or composition. In view of the present duty and drawback situation, free entry appears to be appropriate except for those goods of concern to Union Carbide. If this item is adopted, it would replace items 28100-1 and 28105-1. In the decision on Appeal No. 1571, it is held that refractory fire-brick used for purposes other than heat-resistance should be treated in exactly the same manner as other fire-brick. The wording of the proposed new item should be modified accordingly, to eliminate end use. This would render item 28110-1 redundant.

The Association had indicated to the Board that it has no interest in non-heat-resistant uses of fire-brick and takes no position with respect to the classification of pertinent products. The Board has not received, nor, in view of the then pending appeal, did it seek to elicit any views from manufacturers, importers or users, regarding the appropriate future tariff treatment of refractory products for non-heat-resistant uses.

The recommended new item, would, of course, eliminate item 28105-1, specifically referred to the Board in Reference No. 157.

With regard to the refractory specialties, these have been considered by the Board only because the Association put forward its proposals as a package. The proposal with respect to refractory specialties would restore, at a lower level of duties, the situation that prevailed prior to Appeal No. 1097. Although no public hearing was held on this subject, the Board can see no reason why an item based on that proposed by the Association should not be

adopted. It is assumed that, in accordance with the usual practice, the Minister of Finance will make this report public and invite views thereon prior to the implementation of tariff changes. This would afford any potentially interested parties an opportunity to file objections for consideration by the Minister. As noted above, the rate of duty proposed by the Association for 1987 would be somewhat below the average rate that would apply were the pertinent goods to be dutiable at the M.F.N. rates applicable under existing items. For clarity, an amendment to tariff item 28220-1 would probably also be desirable.

The Association proposes that the M.F.N. rate for the item encompassing specialties should be set at the level applicable under tariff item 28205-1 at the time of introduction of the new item, i.e. 11.4 p.c. in 1981, 10.8 p.c. in 1982 or 10.3 p.c. in 1983, and that the rate should subsequently be reduced to 8 p.c. in step with the rate under item 28205-1. This would cause some difficulties in establishing a rate under the B.P. Tariff. Under items 28205-1 and 28220-1, there are no margins of preference, although such exist under items 71100-1 and 93819-1. It would seem desirable, in view of Canada's obligations under GATT, to avoid introducing, even temporarily, any new margin of preference. Moreover, it would also appear undesirable to raise any B.P. rate when the M.F.N. rate is not also increased. The existing B.P. rate under item 93819-1 is 10 p.c. Therefore, the Board recommends that, at its introduction, this new item should have B.P. and M.F.N. rates of 10 p.c. On and after January 1, 1984, when the B.P. and M.F.N. rates under item 28205-1 will be below 10 p.c., then the rates under this item should be the same as those under item 28205-1.

The Board has, however, noted the objections of the steel manufacturers to the structure of the proposed item, and favours the wording put forward by them. In addition, it sees no need for a "n.o.p." provision, but also feels that ceramic fibres should not be treated differently from other products for similar uses. The Board has no information concerning the use of refractory specialties in the manufacture or construction of abrasion-resistant or corrosion-resistant structures or equipment. However, in view of the disappearance of any distinction with respect to fire-brick, it would appear desirable to make a parallel provision for the refractory specialties.

RECOMMENDATIONS

Therefore, the Board recommends:

1. That Schedule 'A' to the Customs Tariff be amended by striking out tariff items 28100-1, 28105-1 and 28110-1, together with the enumerations of goods and rates of duty set opposite each of these items, and by inserting therein the following tariff items, enumerations of goods and rates of duty:

		<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
Rigid refractories (fire-brick) of any shape, size or composition:				
28100-1	Other than the following ...	Free	Free	15 p.c.
28101-1	Products containing not less than 85 per cent of carbon or graphite			
	On and after Jan. 1, 1981	5 p.c.	9.2 p.c.	22.5 p.c.
	On and after Jan. 1, 1982	5 p.c.	8.8 p.c.	22.5 p.c.
	On and after Jan. 1, 1983	5 p.c.	8.4 p.c.	22.5 p.c.
	On and after Jan. 1, 1984	5 p.c.	8.0 p.c.	22.5 p.c.
	On and after Jan. 1, 1985	5 p.c.	7.6 p.c.	22.5 p.c.
	On and after Jan. 1, 1986	5 p.c.	7.2 p.c.	22.5 p.c.
	On and after Jan. 1, 1987	5 p.c.	6.8 p.c.	22.5 p.c.

2. Subject to no valid objection being received after publication of this report, that:

Schedule 'A' to the Customs Tariff be further amended by inserting therein the following tariff item, enumeration of goods and rates of duty:

		<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
28115-1	Refractory and heat insulating mortars, ramming and gunning mixes, castables, plastic refractories and ceramic fibres in the form of batts, blankets, boards or cloth; all the foregoing for use in the construction or repair of furnaces, boilers, incinerators, kilns or other heat-resistant, abrasion-resistant or corrosion-resistant enclosures, equipment or structures			

	<u>British Preferential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>	<u>General Tariff</u>
On and after Jan. 1, 1981	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1982	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1983	10 p.c.	10 p.c.	22.5 p.c.
On and after Jan. 1, 1984	9.7 p.c.	9.7 p.c.	22.5 p.c.
On and after Jan. 1, 1985	9.1 p.c.	9.1 p.c.	22.5 p.c.
On and after Jan. 1, 1986	8.6 p.c.	8.6 p.c.	22.5 p.c.
On and after Jan. 1, 1987	8 p.c.	8 p.c.	22.5 p.c.

3. That the enumeration of goods opposite item 28220-1 be amended to:

Hydraulic cement concrete mixes, wet or dry, not
including refractory mixes.

CAI
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CANADA

TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA

PHASE I



APPRAISALS BY THE STAFF

REFERENCE
157

THE TARIFF BOARD

THE TARIFF BOARD

REFERENCE NO. 157

**TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA**

PHASE I

APPRAISALS BY THE STAFF

DECEMBER, 1982

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PREFACE

In connection with the inquiry into Reference No. 157, the staff of the Tariff Board prepared and circulated a series of papers in which the facts and viewpoints pertaining to the tariff items under review were assembled and appraised and possible tariff solutions to the problems posed by the reference were set out. Six such Staff Appraisals, covering different groupings of tariff items, were published, the groupings reflecting, in a general kind of way, the end-uses and/or physical characteristics of the goods at issue.

The evidence presented in these staff appreciations has been extensively drawn upon by the Board in the preparation of its own report to the Minister of Finance on Phase I of Reference No. 157, while a reading of the Board's report assumes ready access to this evidence. As an integral part of the inquiry, therefore, these Staff Appraisals are now brought together in a single volume.

The Staff Appraisals, as originally published, are here reproduced in their entirety, except that replicated sections, common to two or more appraisals, have been removed. The original pagination - with the page numbers indicated at the top of the page, and varying with each individual appraisal - has been retained and provides the basis for page references, as appropriate, in the Board's report to the Minister.

In addition, for the purpose of the present consolidation, the pages have been renumbered sequentially throughout, with the numbers appearing at the bottom of the page. The General Table of Contents, set out at the beginning of this volume, has been paginated with reference to this sequential system of numbering. By consulting this table, the reader will be able to locate the individual Staff Appraisals relating to the various groupings of tariff items studied by the Board. From the Table of Contents which appears at the beginning of each Staff Appraisal, the reader may then proceed to the review of individual tariff items.

FOREWORD

In keeping with the Board's new policy, this report, in relation to Phase I of Reference No. 157, concerning tariff items under which the dutiable treatment of goods is determined by whether or not they are "of a class or kind made/not made in Canada", comprises an analysis and appraisal by the Board's staff of all representations made during the public inquiry and of all relevant data obtained as the result of its own research. The report begins with a re-examination of the major issues under consideration and a review of the weight of evidence pertaining thereto, and then continues with an appraisal of all the facts and viewpoints for each individual tariff item referred to the Board.

The Board is giving this staff appraisal a wide distribution among interested, and potentially interested parties, for the purpose of eliciting comments and observations thereon, either in writing, or at a final public hearing in connection with this phase of Reference No. 157, to be held in Ottawa, beginning February 15, 1982.

It may need to be stressed that this document is not a position paper put out by the Board; indeed, the Board will not be seeing this report prior to its general circulation. As already indicated, this is an appreciation of matters pertaining to the present inquiry, as seen through the eyes of the Board's staff, and, as such, the facts and findings contained therein may be variously confirmed, modified, elaborated, challenged or rejected by those with an economic interest and/or technical knowledge in the subject area - and, in the final analysis, by the Board itself.

By proceeding in this manner, the Board feels that the impartiality of its own position will be maintained, while, at the same time, interested parties will have a final opportunity to present their views on the subject matter of this report. These views will become part of all the assembled evidence upon which the Board will base its recommendations.

W.L. Posthumus
Director of Inquiry Operations

Ottawa
December 16, 1981

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THE ISSUES RE-EXAMINED

Introduction

In November 1979, a few months after the initiation of Reference No. 157 by the Minister of Finance, a preliminary review of the issues was circulated by the Board as Discussion Paper No. 1. Because of its timing, this review was unable to draw upon the knowledge, insights and opinions of interested parties, while time constraints also precluded any detailed analysis of relevant data or any balanced assessment of the issues.

In the period which has since elapsed some positive progress has been made in these regards, attention being focussed primarily upon the goods encompassed by the 60 tariff items falling within the ambit of Phase I of the inquiry. In relation to these goods and tariff items much background information has been assembled and scrutinized, the views of interested parties - or of those otherwise knowledgeable in the pertinent product areas - have been elicited, and a series of public hearings has been held by the Board. There has been time for reflection and analysis, wherein to obtain a greater awareness of the complexities involved in the subject matter of this reference and to gain some appreciation of the orders of magnitude of the different variables.

However, while certain of the pertinent issues now appear more sharply defined than heretofore, the form and substance of possible tariff recommendations remain, in a number of instances, elusive. On matters of detail, the information base which has been developed still contains gaps and "grey areas", particularly with respect to the product characteristics and made-in-Canada status of many of the goods falling under the referred tariff items. It is to be desired that interested parties will assist further in this final review stage by advising on the relevant goods and their made-in-Canada status. It should be noted that most of the commodity classes whose made-in-Canada status is listed in this report as "uncertain" have been imported under "not made in Canada" tariff provisions; in the absence of information to the contrary, therefore, these classes of goods will generally have to be considered as not made in Canada, and hence as eligible for preferential tariff treatment, usually duty-free entry.

Considerations of "Continuing Relevance"

The nomenclature of the tariff items falling within Phase I of the reference, and the principal statistics pertaining thereto, have been set out in the individual Background Papers relating to each group of items. A global

summary of these data, appropriately revised and updated, is now presented in Table 1, which sets out the essential characteristics of the tariff items under review and provides an analytical framework wherewith to assess the possible implications of different tariff options (see pages 13-20).

In his letter of reference to the Board, the Minister states that "there is a need to review the continuing relevance of the 'made/not made' items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations, including the recent 'Tokyo Round' of multilateral trade negotiations". Patently, in this context, the words "continuing relevance" have a key significance, and the way in which this term is interpreted should predictably have a critical bearing upon the shape and outcome of the Board's deliberations. This issue is not, perhaps, as simple and straightforward as might appear at first sight. However, useful comment would seem to start with a consideration of the raison d'être underlying the establishment of the referred tariff provisions.

Accordingly, it may be recalled that the "made/not made" tariff arrangements have long historical antecedents dating back to the latter part of the nineteenth century. The principal general aim - then and since - has been to provide otherwise dutiable goods with duty-free entry, or access at preferred rates, when "of a class or kind not made in Canada" and (in the majority of instances) when imported for certain specified uses and/or for certain specified users. Thus, with respect to goods falling under such end-use provisions, preferential tariff treatment is accorded on a restricted basis without apparent prejudice to Canadian producers. It is to be noted that while some of the goods at issue are highly specific in regard to industrial end uses, many - perhaps the majority - are capable of being utilized in a broad spectrum of economic sectors. Hence, there is a problem of ensuring that the preferences conferred by the relevant tariff provisions are enjoyed by those for whom they are intended.

There is no doubt that in the past, more especially in the period spanning the 1930's and early post-war years, the tariff concessions embodied in the referred items conferred considerable benefits upon importer-users. In the case of "not made" goods entering under the B.P. Tariff (whose margins of preference were maintained and, in some instances, deliberately promoted by the "made/not made" provisions), an absolute rate advantage of as much as 27.5 p.c. could have been obtained, on occasion, in comparison with the duty applicable to "made" goods entering under the corresponding Intermediate or M.F.N. Tariff. However, in more recent decades B.P. margins of preference have been significantly eroded and, in the case of goods emanating from the United Kingdom and Ireland, will completely disappear by 1987. More largely, the progressive whittling away of import duties in the post-war years, as the

result of successive rounds of multilateral trade negotiations, has substantially reduced levels of protection under the M.F.N. Tariff and by 1987, when the final concessionary rates of the Tokyo Round become effective, comparatively few of the goods presently entering under the "made/not made" provisions will be liable under alternative tariff items to M.F.N. rates of duty in excess of 10.2 per cent.

Viewed in terms of its impact on a user's production costs and profit performance, it may be surmised that a saving of 10.2 per cent with respect to the costs of selective - possibly minor - material inputs, particularly when in the form of investment goods depreciated over perhaps 20 or 30 years, will, in most instances, be very slight. The public hearings suggested that few users had given much thought to this aspect of the question; indeed, some users were apparently unaware whether the duty savings attaching to a "not made" designation were, in fact, being passed on to them by their suppliers.

The conclusion that the benefits conferred by the "made/not made" tariff arrangements are, in some cases, no longer very real or very obvious would seem to be borne out by an apparent lack of interest in the future disposition of certain of the provisions under review. In relation to 16 of the 60 items encompassed by Phase I of the reference, no representations have been made. In some, but by no means all, of these instances, imports in recent years have been small, the principal exceptions being tariff items 42762-1, 44125-1 and 43150-1. In the case of 16 items (including seven of those in regard to which no submissions have been received) the average annual value of imports in 1978-80 amounted to less than \$1 million.

Moreover, to view the issue of "continuing relevance" solely from the standpoint of whether the advantages conferred by the "made/not made" tariff provisions are still worthwhile, might seem to place altogether too narrow a construction upon the Board's mandate in this regard. It is also surely pertinent to ask whether the provisions under review are still necessary or desirable, bearing in mind that the preferential treatment which they extend to certain sections of the community has, in the last resort, to be paid for by the tax-paying population at large. In the years 1978-80, goods with an average value of rather more than \$2.52 billion per annum entered under the "not made in Canada" tariff provisions coming within the scope of the present reference (of this amount Phase I items accounted for approximately \$1.15 billion). If these goods, which in the main were non-dutiable, had paid an average rate of duty of, say, 10 p.c., the yield in customs revenue would have amounted to \$252 million per annum, i.e. more than ten times the sum that was actually collected. Given the government's need for revenue, the monies thus foregone will have constituted an additional taxation burden to be shouldered by the general tax payer.

Of course, the issue here is not just one relating to the incidence of taxation. There is also the broader question of economic and social priorities, and whether the preferential fiscal treatment embodied in the referred tariff provisions continues to make sense in the light of present-day national policy objectives. If the duty concessions which have been granted no longer properly reflect the goals of economic and social policy, or if such concessions have clearly ceased to be necessary to the viability or well-being of the beneficiaries, it would seem relevant to query whether the privileges in question should continue to be perpetuated and, at a further remove, to ponder whether the national interest might not be better served by the preferment of a different body of interests. Even if, on national policy grounds, some form of special concessionary treatment may seem warranted, there is the additional question of whether - given the wide range of assistance programs and schemes sponsored or administered by government, and the limited possibilities for tariff manipulation in today's regulated international trading environment - the Customs Tariff remains the most appropriate vehicle for providing assistance, on a differential basis, to certain select groups or interests. These are the kind of issues, among others, which the Board might be expected to review in a normal tariff-setting exercise. There is no doubt of their relevance in such a connection. The question here is whether they are admissible in the present context.

Other Tariff Arrangements

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind provisions" - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable. It is clear that the prospect of a less flexible system of classification is not to the liking of all interested parties; but in view of (i) the prime purpose of this reference, (ii) the traditional acceptance of statutory authority as the essential basis for the administration of Canadian tariff classification, and (iii) the impending introduction of the CCCN (with its strict arrangement by product divisions), some very compelling arguments might be thought necessary for such dissenting viewpoints to carry persuasive force.

In light of the terms of reference supplied by the Minister, lack of feasibility would seem to be the main - if not the only acceptable - reason for rejecting an eo nomine approach to the problem in hand. Clearly, tariff classifications based upon specific commodity descriptions are most easily developed when the goods to be encompassed are few, simple, and broadly homogeneous in function and physical characteristics.

As already pointed out in Background Papers, many of the tariff provisions included in this reference contain descriptions of goods in general terms which comprehend a wide and highly diversified range of products, some of which are produced in Canada and some of which are not. The Board has sought to establish lists of relevant classes of goods using as an information base, not National Revenue rulings, which were found to be generally unsuitable for this purpose, but Statistics Canada import data cross-classified by tariff item and 7-digit commodity class. However, especially in relation to n.e.s. ("not elsewhere specified") classes of goods, many "grey areas" remain with respect to the identification and specification of relevant products, while the commodity classes thrown up by the initial review of import data, covering the years 1977-78, clearly failed to encompass all of the goods potentially classifiable under certain of the referred tariff provisions. Further work in this area, including a review of 1979-80 import data and a matching up, where possible, of tariff nomenclature and commodity class descriptions, has resulted in some additions to, and revisions of, previously-circulated product listings. These changes are noted subsequently in this report in connection with the reviews of individual tariff items; observations pertaining thereto are invited, particularly with respect to the relevance and made-in-Canada status of the affected classes of goods, as well as in relation to any other classes designated as being of "uncertain" status.

The inadequacies of National Revenue rulings for product descriptive purposes have also militated against the use of these rulings for made-in-Canada determinations in the present instance. The process whereby the Board has sought to establish the made-in-Canada status of goods falling within the ambit of the referred tariff provisions (involving the review of commodity class descriptions, first, by the Department of Industry, Trade and Commerce, and second, by representatives of the business community) has been described in earlier background material. It may, however, need to be stressed that, with this process, an interpretation different from that understood by the customs administration has been given to the term "of a class or kind made/not made in Canada". Whereas, under National Revenue guidelines, a good is not considered to be "of a class or kind made" unless at least 10 per cent of the Canadian market can be supplied by domestic producers, in the case of the review undertaken for the Board, production capability (irrespective of

volume) has generally served to secure a "made" designation. It will be appreciated that, in practice, the main difference between these two approaches lies in the element of protection afforded to infant industry.

However, it is clear that in some instances, goods which might theoretically qualify for a "made-in-Canada" classification under existing operational parameters have not been so registered. Doubtless, some such omissions can be explained by a lack of knowledge on the part of domestic manufacturers regarding the existence of the pertinent tariff provisions, or of the administrative regulations pertaining thereto, while other exceptions can be attributed to a simple failure - due to inertia or a discounting of the benefits to be gained thereby - to pursue a "made" ruling. In certain instances, however, it appears that domestic manufacturers have held back on account of a fear to black-listing by customers faced with the prospect of having to pay more for competing foreign products. In yet other cases, manufacturers - perhaps mistakenly, in view of the implication of negative effective protection - have been unwilling to relinquish duty-free access to imported parts in exchange for protection against competing finished products.

Whether or not an acceptable eo nomine commodity listing can be developed and, if so, how it should be structured, will depend in the first instance upon the success achieved in identifying and circumscribing the goods in question and in determining their made-in-Canada status. There should be little difficulty in those instances where individual product descriptions are already set out in the nomenclature of a "not made" tariff provision and all the goods classifiable thereunder are reported as being "not made". Assuming a continuation of present preferential duty treatment, the existing nomenclature could simply be retained without the qualifying clause "of a class or kind not made in Canada".

The situation becomes somewhat more complex when some or all of the goods listed in an eo nomine "not made" provision are reported as being "made" on the basis of the criteria adopted by the Board. From an industrial development standpoint the obvious course would be to exclude such "made" goods from the nomenclature of any new preferential (duty-free) item, and to make them dutiable, either in their own item or by allowing them to fall into other (dutiable) parts of the Customs Tariff. However, since such situations could, in certain instances, result in demands for compensation by Canada's trading partners, it is necessary to pause in order to consider what would be lost by including the "made" goods (and also any of "uncertain" made-in-Canada status) in a preferential tariff provision encompassing the "not made" related products. Obvious variables to review in this regard would include the value of imports, the ratio of "made" to "not made" goods, and the comparative levels of duty.

The above comments are predicated upon the assumption that the goods in question are known and capable of enumeration. However, as already noted, many of the products encompassed by this reference fall under very general commodity descriptions (such as "machinery and apparatus for use in ...") which are of little use in providing a basis for an eo nomine approach. In certain instances, the "made/not made" provisions apply specifically to parts (q.v. items 49104-1 and 49105-1) or materials (q.v. item 43705-1). It seems clear that in cases such as these, it will not be possible to arrive at definitive eo nomine listings of all pertinent goods. It is also unlikely that the made-in-Canada status of every commodity included in a lengthy enumeration will be known with certainty. Of course, in some instances, where reliable and reasonably complete information exists, separate eo nomine treatment might be provided in relation to one or more of the classes of goods encompassed by wide-ranging commodity descriptions.

With respect to the treatment of the bulk - if not, all - of the goods falling under these very broad provisions, various approaches might be adopted. The different possibilities have already been outlined in Discussion Paper No. 1 and set out in more detail on a tariff item-by-tariff item basis in papers previously circulated by the staff. For example, if, in the light of available information, it emerges that most of the relevant goods are "made", these (and possibly some, or all, of the goods categorized as being of "uncertain" status) could be listed in a dutiable item, with all other goods being placed under a duty-free provision. One of the problems with this kind of arrangement (apart from the question of possible compensation) is the likelihood that the list of "made" goods would in some instances be very long. As a possible alternative arrangement, the "not made" goods could be listed in an eo nomine duty-free tariff item, with a basket dutiable provision being provided for the remaining goods, such goods to be unnamed and possibly made subject to duty remission when not available from domestic sources. In this way protection would be provided to any "made" goods and could readily be extended to any unlisted products not yet manufactured in Canada.

Of course, as already noted in Discussion Paper No. 1, in the case of paired ("not made" and corresponding "made") items, which are to be found mainly in the mining machinery and oilfield equipment schedules, the whole exercise of identifying products and determining their made-in-Canada status can be side-stepped by simply combining the paired provisions into a single item without any change in the existing nomenclature and applying a common rate of duty. The main problem with this approach, as was evident at the hearings, concerns the determination of duty, since any average which is struck will reduce existing protection on "made" goods and place an imposition on presently duty-free "not made" goods. Moreover, in the case of machinery

items, if it is assumed that "not made" goods are "not available", the anomalous situation is reached whereby a duty will be imposed upon general-purpose "not made" machinery when intended for one of the designated (hitherto, preferred) end-uses, while the same machinery when imported for general use will qualify for duty remission under the provisions of the "availability" program.

The "Availability" Formula

Of the various alternatives to an eo nomine listing of goods, that broached most frequently by interested parties has been the "availability" concept as currently provided for in tariff item 42700-1 et al., administered by the Department of Industry, Trade and Commerce under the provisions of the Machinery Duty Remission Program. Like the "made/not made" tariff prescription, the "availability" formula is attractive to some in that it permits changing situations to be accommodated through the exercise of administrative discretion; indeed, since "availability" criteria reflect not only production possibilities but also market tendencies, it is the more pliable arrangement. However, since the Machinery Duty Remission Program evolved in 1968 from earlier "made/not made" tariff provisions governing the importation of residual classes of machinery, a similar basic philosophy underlies both of these approaches.

Subsequently, there has been a high degree of interchangeability between tariff item 42700-1 and "made/not made" machinery provisions applying to the mining, oilfield and related sectors, in particular. In part, this situation would seem to stem from the fact that the end use of machinery capable of general-purpose applications, including those covered by "made/not made" provisions, is often not known at the time of importation. The closeness of the aforementioned relationship is underlined by the fact that, should any machinery-oriented "made/not made" items be deleted, the pertinent machines, together with their accessories, attachments, control equipment, tools and parts (but not associated apparatus) would revert, in most instances, to tariff item 42700-1, and thus become subject to the Machinery Duty Remission Program. Accordingly, given the Minister's injunction that the "availability" concept should be resorted to only in "specialized circumstances", if at all, simple elimination of the "made/not made" machinery items would evidently not provide a solution generally acceptable to the Minister.

An "availability" approach, however, is not completely ruled out. One can only infer the "specialized circumstances" which the Minister is prepared to concede, but these seem likely to consist primarily of those kinds of situations, already mentioned, in which a comprehensive eo nomine listing

would not be feasible on account of the scale of the undertaking, the indeterminate nature of the subject area, and/or the large element of uncertainty in the information base. One may also conceive of other somewhat exceptional circumstances in which a need for flexibility may promote acceptance of the "availability" concept. Commodity areas in which there is rapid technological or economic change could conceivably provide such examples, as could areas in which the materials or products at issue have strategic importance. Goods which are model-specific inputs, or otherwise difficult to categorize as being either "made" or "not made", might also be possible candidates for "availability" treatment. Except for situations of the latter type, circumstances such as those outlined above might alternatively point to retention of a "made/not made" prescription rather than the application of "availability" criteria.

However, assuming that a duty differential is to be maintained in respect of classes or kinds of goods made in Canada and those not so made, it needs to be recognized that the use of an "availability" formula, or retention of "made/not made" provisions, would not avoid the need to make judgments in regard to the made-in-Canada status of individual commodities. There is also the additional consideration that the administration of "availability" provisions (by the Machinery Branch of the Department of Industry, Trade and Commerce) is presently limited to a wide range of machines, together with their accessories, attachments, control equipment, tools and parts. If these provisions are extended to encompass other goods such as electrical instruments, wood manufactures, steel products, apparatus of various kinds, and a diversity of materials, additional budgetary and manpower resources will presumably be required.

Duty Considerations

On the subject of the rates of duty to be applied to the goods falling within the scope of the reference, the Minister observes that the Board should "use as a tariff level reference point the final concession rates agreed to in the Multilateral Trade Negotiations". It is further indicated that "to the extent possible, the Board should not make recommendations with respect to these [referred] items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories".

What should constitute "relevant product categories" is left to the Board to determine. The possibilities are evidently very wide. At one extreme it might be argued, for example, that any type of machine falls into a "machinery product category", thus encompassing a very substantial proportion of the goods presently under review, while, at the other extreme, it is

possible to conceptualize a product category in terms as narrow as "pumps" or "compressors". By focussing upon the Minister's use of the word "relevant" in this context it is possible to widen the options still further. The Board is authorized to review any tariff items which it considers "relevant" to this reference; and it will be readily apparent that, insofar as the Board's recommendations might shift goods to or from other parts of the Customs Tariff, thereby resulting in changes in average levels of protection, the counterpart provisions, as well as those referred to the Board, should be brought within the ambit of study. This would manifestly be the case when some or all of the goods encompassed by an existing duty-free "not made" item are dropped from any new preferential tariff arrangement and, as a consequence, become dutiable under alternative provisions applying to like products. Clearly, the net effect of such a realignment would be to increase the overall level of protection in relation to the total of pertinent goods unless, at the same time, the rates of duty applicable to the expanded item or items were correspondingly reduced.

To estimate the tariff adjustments involved in an exercise of this kind would not appear to be conceptually difficult. However, at the practical case-study level, a summary review of the facts suggests that some formidable problems might be encountered in connection with the mechanics of such an operation. First, the pertinent rates of duty might include, not just one, but a multitude of alternative tariff provisions, some of which could prove difficult to identify, especially in relation to "parts" (which account for well over one half of the value of imports under many of the referred tariff items) and "materials". Secondly, an appreciation of the duty implications of reclassification changes along the lines indicated above would require the assembly and analysis of data on import values on a commodity class or individual product basis, not only in relation to the relevant referred provisions but also in respect of any other items which might be involved in the reclassification process, in order that appropriate statistical weights might be calculated and applied. However, from a tariff adjustment standpoint, cases of this kind, while predictably time-consuming in terms of research input, are unlikely to present the Board with its most difficult judgmental problems.

The Minister's letter states that the Board's recommendations, if implemented, should not result "in an overall increase in the levels of protection provided for in the new GATT Schedule". From this it might be inferred that the rates of duty bound under GATT have been set at levels lower than the M.F.N. rates applied in the pre-MTN Customs Tariff; and in the majority of instances this is undoubtedly so. However, reference to Table 1 indicates that, in the case of 18 of the 60 referred Phase I items, the actual M.F.N. rate of duty effective in 1979 was (and remains) lower than the GATT final (1987) concession rate. (There are also 10 such items in Phase II of the

inquiry). All of these items, it might be noted, encompass goods of classes or kinds not made in Canada, and all (except one item on Phase II) presently provide duty-free entry. If the GATT final concession rates of duty had been applied to these items in 1978-80 an additional \$61.4 million per annum could have been raised in customs revenue. Of this amount \$50.6 million would have been in connection with the import of goods falling under Phase I of the inquiry. This latter figure may be put into perspective by noting that it would have represented almost four-fifths of the customs revenue (of \$63.8 million) which would have accrued by applying 1987 duty rates to 1978-80 imports under all Phase I items, and by contrasting it with the \$31.3 million (or thereabouts) actually raised.

Thus, by pointing towards a change in the dutiable status of some of the major "not made" items under review, "a tariff level reference point" which was determined by "the final concession rates agreed to in the Multilateral Trade Negotiations" would, in effect, provide a substantial bonus to the revenue authorities, while protection would also be extended to Canadian producers of any pertinent goods "of a class or kind not made in Canada". The privileged position of the users of these goods, however, would be undermined. On the other hand, a Board recommendation for continued duty-free entry in relation to all or any of the goods presently encompassed by these "not made" provisions, if negotiated with Canada's trading partners and subsequently written into the Statute Book, would have the effect of rescinding the recent GATT binding, thereby making it more difficult for the domestic production of such goods to become established. Future import replacement would have to take place without the benefit of tariff protection or would require compensation to Canada's trading partners.

One possible solution, which would seem particularly applicable in the case of certain of the paired items, would be to have a single dutiable item listing all goods, both "made" and "not made", followed by a provision temporarily reducing the duty of the statutory item to Free in relation to any of the specified goods which the Board's studies have indicated are presently not made in Canada. Such a temporary reduction could be effected by Order in Council pursuant to Section 273 of the Customs Act, provided that this section (upon recommendation by the Board) is amended to authorize temporary reductions in duty for goods other than "articles ... used as materials in Canadian manufactures", as currently specified in Section 273(1). Alternatively, the Board could recommend that such temporary reductions be carried out by Governor in Council under an amended Section 12 of the Customs Tariff, or under a new section to that Act similar to Section 12. However, it would probably be simpler, as well as more desirable, to use the authority presently available under Section 17 of the Financial Administration Act.

The tariff arrangement envisaged above would enable the GATT concessionary rates applying to the pertinent "not made" goods to be made statutory and, hence, permanent. At the same time, in the light of representations made to the Board, the notion of duty-free entry for selected goods on a temporary basis might be expected to appeal to some parties because it would permit a degree of flexibility to be exercised. Changes to the list of Free goods would be made by Governor in Council, rather than by an amendment passed by Parliament, without necessitating compensation in those instances involving the reinstatement of protection. Such changes might be made on an on-going basis or at the end of whatever temporary duty-free period is thought appropriate. Final revisions coincident with the termination of this arrangement would see the "not made" goods encompassed in a permanent duty-free n.o.p. ("not otherwise provided for") basket provision. It should be noted that, in the event of this arrangement not proving acceptable to the Government, it would already incorporate all the commodity information necessary for an eo nomine alternative which would be statutory in its entirety.

TABLE 1

REFERRED TARIFF ITEMS: ANALYTICAL FRAMEWORK

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1978-80(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		MFN Rate(b) \$'000	MFN Rate(b) \$'000		
19755-1	Paper or fibreboard	Manufacture of artificial resins & plastics materials	Not Made	Free	Free	16.8	-	-	6	Yes
28105-1	Firebrick, n.o.p.	Construction/repair of furnaces, kilns or other equipment in manufacturing	Not Made	Free	(Free)	49.5	-	-	6	Yes
38002-1	Iron or steel wide-flange beams	N.A.	Not Made	\$5 per ton	Free	8.6	129(d)	-	6	Yes
38003-1	Iron or steel angles, beams, channels, zees	N.A.	Not Made	Free	(Free)	10.6	-	-	6	Yes
41001-1	(Bits, augers, drills, fishing tools,	Exploration/drilling for water, oil, natural gas or minerals or in mining or quarrying	Made	15 p.c.	9.2 p.c.	16.4	2,454	1,505	1, 2	Yes
41002-1	(reamers, stabilizers		Not Made	Free	9.2 p.c.	99.3	-	9,139	1, 2	Yes
Ex.41012-1	Conveyors & parts	Mining, quarrying/processing of ores, metals or minerals	Not Made	Free	9.2 p.c.	(46.2)	-	(4,254)	1	Yes
41013-1	(Air engines, coal-cutting machines, dust collectors, elevating platforms, flame-proof enclosed driving motors, loading machines, pumps, fans, blowers, etc.	Mining, quarrying/processing of ores, metals or minerals	Made	15 p.c.	9.2 p.c.	5.1	760	466	1	Yes
41014-1			Not Made	Free	9.2 p.c.	94.0	-	8,651	1	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff			Average Annual Imports 1978-80 (b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987 (a)	Not Made Free (Free)		1979 MFN Rate (b) \$'000	1987 MFN Rate (b) \$'000		
Ex. 41021-1	Machinery & apparatus	Handling materials to be charged into a blast/electric smelting furnace	Not Made	Free	(Free)	(15.8)	-	-	1	Yes	
41022-1	(Machinery & apparatus	Refining, roasting/smeltering)	Made	15 p.c.	9.2 p.c.	12.6	1,893	1,161	1	Yes	
41023-1	()	metals, washing, screening/)	Not Made	Free	9.2 p.c.	22.6	-	2,078	1	Yes	
41026-1	(Machinery & apparatus	Producing coal gas & coke,)	Made	15 p.c.	9.2 p.c.	3.4	505	309	1	Yes	
41027-1	()	distillation/recovery of)	Not Made	Free	9.2 p.c.	0.5	-	48	1	Yes	
41031-1	()	products from coal tar)	Made	15 p.c.	9.2 p.c.	1.7	257	157	1	Yes	
41032-1	()	or gas)	Not Made	Free	9.2 p.c.	0.8	-	74	1	Yes	
41305-1	Machinery & apparatus	Recovery of particles from)	Not Made	Free	(Free)	95.4	-	-	3	Yes	
41700-1	Machinery & apparatus, complete parts thereof, & structural iron & steel	Preparing, manufacturing, testing/finishing of yarns, cordage & fabrics by manufacturers & scholastic/charitable institutions)	Not Made	Free	(Free)	0.7	-	-	3	No	

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1978-80(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
42000-1	Machines & parts thereof	Tanning/embossing leather	Not Made	Free	Free	2.6	-	-	3	Yes
42100-1	Machinery & complete parts thereof	Manufacture(rs) of clay products	Not Made	7.5 p.c.	5.5 p.c.	0.4	26	19	3	No
42600-1	Ozone generators or airifiers, parts thereof	N.A.	Not Made	5 p.c.	N.A.	0.3	17	17	3	Yes
42761-1	(Machines & tools	On off-highway internal combustion tractors other than certain inte-	Made	15 p.c.	9.2 p.c.	6.2	932	572	5	No
42762-1	(	grated self-propelled machines	Not Made	Free	(Free)	58.7	-	-	5	No
Ex.42765-1(e)	Hydraulic equipment, torque converters, engine-over-axle type transmissions	Manufacture of road graders or scrapers	Not Made	Free	(9.2 p.c. 10.2 p.c.)	(9.3)	-	(905(f))	5	Yes
42865-1(e)	Diesel & semi-diesel, natural gas, L.P.G. & internal combustion engines	Manufacture of electricity generating sets	Not Made	Free	(9.2 p.c.)	22.9	-	2,110	4	Yes
42875-1(e)	Gasoline internal combustion, water-cooled engines	Manufacture of portable air compressors & concrete mixers	Not Made	Free	(9.2 p.c.)	0.0(g)	-	0(h)	4	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1978-80(b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Conces-sion Rate 1987(a)		MFN Rate(b)	1987 MFN		
							\$'000	\$'000		
Ex. 42880-1(e)	Diesel engines	Manufacture of plate type vibratory compactors	Not Made	Free	(9.2 p.c.)	(0.0)(g)	-	(1)	4	Yes
42885-1(e)	Diesel engines	Manufacture of portable crushing/screening plants	Not Made	Free	(9.2 p.c.)	0.0(g)	-	4	4	Yes
43150-1	Geophysical instruments & equipment	N.A.	Not Made	Free	Free	13.7	-	-	7	No
43155-1	Photogrammetric instruments & equipment	Interpretation of photographs & preparation of maps/plans from photos	Not Made	Free	Free	2.5	-	-	7	No
Ex. 43425-1	Trucks of welded design with tubular frame, cast steel cross members, rubber mountings etc.	Construction of street railway cars	Not Made	7.5 p.c.	(7.5 p.c.)	(0.1)	(5)	(5)	5	Yes
43505-1	Locomotives & motor cars for railways & parts thereof, including motive power & parts	Mining, metallurgical or sawmill operations	Not Made	Free	(Free) 15 p.c.	4.6	-	346(i)	5	Yes
43510-1	Diesel switching locomotives, including motive power & parts	N.A.	Not Made	10 p.c.	(10 p.c) 10 p.c.	0.2	25	25	5	Yes
43705-1	Materials, including all parts	Construction/repair of railway signal systems	Not Made	Free	Free	15.6	-	-	5	Yes

TABLE 1 (cont..)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1978-80(b)	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
43710-1	Copper oxide, zinc, alkaline electrolyte, primary (wet) cell batteries	For railway signal systems	Not Made	Free	Free	0.0(g)	-	-	5	No
Ex. 43864-1(e)	Unserviceable parts of internal combustion engines ("cores")	Remanufacture of electric starter motors, generators or alternators	Not Made	Free	(9.2p.c.)	(5.7)	-	(528)	4	Yes
44025-1	Diesel & semi-diesel engines	Construction/equipment of ships or vessels	Not Made	Free	(Free)	73.0	-	-	4	Yes
44028-1	Chronometers & compasses, & parts thereof	For ships or aircraft	Not Made	Free	Free	1.8	-	-	7	Yes
44125-1	Guns & rifles	N.A.	Not Made	7.5 p.c.	5.5 p.c.	28.7	2,154	1,580	6	No
44210-1	Rotors, blade diaphragms, spindle discs, shafts & blades, wholly or chiefly of metal	Repair/remanufacture of gas or steam turbines & parts thereof (by turbine manufacturers)	Not Made	Free	Free	3.5	-	-	4	Yes
44315-1	Automatic pilots, thermostatically- or hydrostatically-operated controls, parts thereof	Manufacture of gas water heaters	Not Made	5 p.c.	Free	0.0(g)	2	-	7	No

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	M.F.N. Tariff		Class or Kind	Conces- sion	Average Annual Imports 1978-80(b) \$million	Estimated Duty (c)		Hearing Group	Sub- mission
			Pre-MTN 1979	Rate 1987(a)				MFN Rate(b) \$'000	MFN Rate(b) \$'000		
44320-1	Gas control devices, n.o.p.	With gas-fired apparatus used for cooking, heating or refrigerating	Not Made	5 p.c.	Free	7.9	394	-		7	No
44524-2	Indicating/controlling equipment	Flame-failure protection	Not Made	7.5 p.c.	5.5 p.c.	4.3	321	235		7	No
44530-1	Flameproof electric transformers, recti- fiers, cable- connecting devices, trailing cable ex- tensions etc.	In mines where inflammable gases exist	Not Made	7.5 p.c.	Free	0.7	55	-		1	No
44532-1	Electrical instruments & apparatus of precision	Measuring altitude, temperature, depth, etc.	Not Made	7.5 p.c.	Free	173.5	13,011	-		7	Yes
44725-1	Well points, well screens, well strainers, pitless well heads	N.A.	Not Made	7.5 p.c.	5.5 p.c.	0.9	64	47		1	Yes
Ex.46111-1	Parts of scales	Conversion/modification to metric measure of scales used in retail operations	Not Made	Free	(10.2 p.c.)	(0.4)	-	(38)		7	No
46115-1	Automatic scales or weighing machines	In Canadian manufactures	Not Made	Free	(Free)	7.0	-	-		7	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1978-80(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
46218-1	Cameras & animation stands	Commercial production of animated films	Not Made	Free	Free	0.2	-	-	7	No
46246-1	Cinematograph & motion picture cameras & camera blimps, optical & magnetic sound equipment, dollies, booms, editing equipment etc.	Commercial production of motion pictures or animated films	Not Made	Free	Free	1.1	-	-	7	Yes
47825-1	(Invalid chairs, (commode chairs, (walkers etc. (designed for the (disabled, acces- (sories & attach- (ments (N.A.)		Made	10 p.c.	9.2 p.c.	3.4	336	309	6	No
47826-1	(((i) Machinery & (apparatus, parts (thereof; ((ii) Well drilling (machinery & (apparatus		Not Made	Free	Free	1.7	-	-	6	No
49104-1	(((i) Machinery & (apparatus, parts (thereof; ((ii) Well drilling (machinery & (apparatus	(i) Exploration discovery, development, maintenance, testing/production of oil or natural gas wells; (ii) Exploration, discovery, development/operation of potash or rock salt deposits	Made	10 p.c.	9.2 p.c.	60.2	6,019	5,538	2	Yes
49105-1	(((i) Well drilling (machinery & (apparatus	(i) Exploration, discovery, development/operation of potash or rock salt deposits	Not Made	Free	9.2 p.c.	218.1	-	20,069	2	Yes

TABLE 1 (concl.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff			Average Annual Imports 1978-80(b)	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Conces- sion Rate 1987(a)	1987		1979 MFN Rate(b)	1987 MFN Rate(b)		
				\$million	\$'000	\$'000					
49201-1	(Bolted steel tanks, chemicals injection pumps, chokes, beans & flow controllers, oil/gas/water separators & treaters	In connection with oil or natural gas wells for installation between the well head & field marketing valve	Made	10 p.c.	6.8 p.c.	3.0	296	201	2	Yes	
49202-1			Not Made	Free	6.8 p.c.	2.7	-	181	2	Yes	
49210-1	(Machinery & apparatus	Distillation/recovery of products from natural gas)	Made	15 p.c.	9.2 p.c.	5.6	839	515	2	Yes	
49211-1			Not Made	Free	9.2 p.c.	12.6	-	1,156	2	Yes	
49215-1	(Machinery & apparatus	Producing unrefined oil from shales/mining oil sands/extracting oil from oil sands	Made	10 p.c.	6.8 p.c.	7.7	774	526	2	Yes	
49216-1			Not Made	Free	6.8 p.c.	15.3	-	1,038	2	Yes	
						Totals:	1,276.2	31,269		63,809	

(a) Entries in brackets indicate earlier binding or binding of parent item(s).

(b) Figures in brackets indicate values in relation to an entire tariff item, as opposed to that part of an item falling within the scope of the reference.

(c) Applied to the average annual value of imports in 1978-80, and assuming all such imports to be subject to the M.F.N. Tariff.

(d) Based on an ad valorem equivalent of 1.5 p.c.

(e) Temporary tariff item created by Order in Council under the authority of section 273 of the Customs Act.

(f) Assuming an average rate of duty of 9.7 p.c.

(g) Positive amount of less than \$50,000.

(h) Positive amount of less than \$500.

(i) Assuming an average rate of duty of 7.5 p.c.

REVIEW OF INDIVIDUAL TARIFF ITEMS

In the following pages the assembled facts and opinions derived from the submissions of interested parties and the Board's own research are set out and appraised on a tariff item-by-tariff item basis. In each instance, a review of the referred and related tariff provisions is followed by a provisional listing of pertinent commodity classes categorized according to their perceived made-in-Canada status. Next, the tariff proposals received by the Board are set out in point form. The concluding section in regard to each item, or pair of items, contains the staff's observations with respect to the foregoing evidence and the staff's appreciation of possible tariff solutions.

The rates of duty set out in the following pages, reading from left to right, are respectively those applicable under the British Preferential Tariff, the Most-Favoured Nation Tariff, the General Tariff, the General Preferential Tariff, and the United Kingdom and Ireland Tariff.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL

MACHINERY AND EQUIPMENT FOR USE IN THE
EXPLORATION, HANDLING OR PRIMARY
PROCESSING OF NATURAL RESOURCES

DECEMBER, 1981

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POSSIBLE NEW ITEM RELATING TO GENERAL-PURPOSE MACHINERY AND APPARATUS (a)	

- (a) The discussion regarding the possible new item will be found
infra, pp.121-122 of this consolidated report.

TARIFF ITEMS 41001-1 AND 41002-1

Existing Tariff Provisions

The present text of these items, with rates of duty, is as follows:

Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;
Fishing tools, n.o.p.;
Reamers, stabilizers, and combinations thereof, n.o.p.;
All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying;

41001-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			
41002-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., although free entry continues to be accorded to "not made" goods under item 41002-1. In these two items, parts follow the goods regardless of their own made-in-Canada status. Consequently, the Board need concern itself only with the products specifically named in the preamble to the two items, when imported for the purposes specified therein.

Average annual imports under items 41001-1 and 41002-1 during the years 1978-80 amounted to \$16.4 million and \$99.3 million respectively.

It should be noted that the aforementioned items cover any kind of bit, auger or drill used for the prescribed purpose, except for the drilling rigs of item 49103-1, which are:

Drilling, servicing or work-over rigs, assembled or not, for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the wellhead assembly or surface oil pumping unit or when they are well-drilling machinery or apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits, but not including automotive vehicles or chassis on which they are mounted.

Subject to the foregoing exclusion, all bits, augers and drills are included, from simple hand tools to complex machines. Drills, bits and augers for other uses fall under items elsewhere in the Customs Tariff; apart from other end-use items, these include item 42700-1 (machinery, n.o.p.), with a

bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program, and 43120-1 (augers, bits, drills, as hand tools), with a bound rate of 11.3 p.c., but with no provision for relief from duty for goods "not made" or "not available" in Canada.

The "n.o.p." provision attached to the other goods would exclude the fishing tools for oil, gas, potash or rock salt included in item 49102-1 and any reamers or stabilizers considered to be covered by items 49101-1, 49102-1 or 49103-1. In the absence of end-use provisions, these goods would also fall under item 42700-1, or, if not machines, under the items providing for unenumerated manufactures of various materials. Most of these latter items are bound under GATT at 10.2 p.c., with no provision for relief on "not made" or "not available" goods.

Because items 41001-1 and 41002-1 apply to goods used in both oil and gas exploration and other natural resource industries, the Board included them in the first two groups of tariff items for study under Phase I of Reference No. 157. Although it appears that the goods are used primarily in the mining industry, from the available trade data it is impossible to distinguish between the products intended for use in the oil and gas sectors and those needed for mining and other natural resource development.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The following rulings with respect to drill bits appear in Departmental Memorandum D51-12:

7/1/59. The following seismograph drilling bits, in sizes 3 1/2" to 4 3/4" inclusive, primarily designed for use in drilling for water, natural gas or oil, have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada: insert bits; finger bits; drag bits; starter bits; auger insert bits; auger finger bits; and auger flat drag bits.

18/12/72. Seismograph three-cone rotary drilling bits in sizes 3 1/2" to 4 3/4" inclusive, primarily designed for exploratory work in connection with natural gas or oil wells have been transferred from the category of a class or kind made in Canada to that of a class or kind not made in Canada.

Note: The effect of this Memorandum is that all three-cone rotary drilling bits primarily designed for uses connected with natural gas or oil wells are now held to be of a class or kind not made in Canada.

10/2/60. Tungsten carbide tipped percussion rock drill bits, three inches in diameter and greater, have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada.

Note: Tungsten carbide tipped percussion rock drill bits, less than three inches in diameter, are presently considered to be of a class or kind made in Canada.

1/4/71. Rotary conical bits commonly used on boring, undercutting or wheel-type underground mining machines have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada.

(b) Commodity Classes

The relevant commodity classes were listed in Table 4 of Background No. 2 (Oil and Gas Exploration) and Table 4 of Background No. 3 (Mining and Other Natural Resource Development). The following summarizes, with some modifications, the made-in-Canada status of the various classes of goods as shown in the two tables.

Commodity Class		Provisional Made-in-Canada Status	
		<u>Oil & Gas Exploration</u>	<u>Other Natural Resource Development</u>
Bits and augers of all kinds			
521-01-30	Core drill bit, diamond type	Not Made*	Made*
521-01-40	Core drill bit, non-diamond type	Not Made*	Made*
521-07-20	Rock drill bit, rotary, tungsten carbide	Not Made	Not Made
521-07-90	Rock drill bit, rotary, nes		
	Roller cone, steel tooth and carbide insert, 3 3/4" and up	Not Made*	Not Made*
	Other	Not Made*	Not Made
521-12-20	Rock drill bit, percussion, all steel type	Made	Made
521-12-30	Rock drill bit, percussion, tungsten carbide	Made	Made
521-12-90	Rock drill bit, nes	Uncertain*	Made*
521-19-52	Augers, earth boring, powered	Uncertain*	Not Made*
Drills of all kinds			
521-01-20	Core drill, diamond type, earth/rock	Uncertain*	Made
521-01-90	Core drilling machine, earth/rock, nes	Made	Made
521-03-20	Rock drill, rotary type, carrier mounted	Not Made	Not Made
521-03-30	Rock drill, percussion, air, mounted, underground		
	Piston diameter 3 1/8" or less	Made*	-
	Piston diameter exceeding 3 1/8"	Not Made*	-
	Piston diameter 3 1/4" or less	-	Made*
	Piston diameter exceeding 3 1/4"	-	Not Made*

521-03-40	Rock drill, percussion, air, mounted aboveground	Made	Made
521-03-60	Stoper drill		
	Piston diameter 3 1/8" or less	Made*	-
	Piston diameter exceeding 3 1/8"	Not Made*	-
	Piston diameter 3 1/4" or less	-	Made*
	Piston diameter exceeding 3 1/4"	-	Not Made*
521-03-70	Jumbo drill	Made	Made
521-03-90	Rock drill, nes	Not Made	Not Made
521-17-21	Drilling machinery, oil well, rotary type	Made	-
521-17-31	Well drilling machinery, natural gas	Made	-
521-17-41	Well drilling machinery, water		-
	Air rotary rigs	Made	
	Cable tool rigs	Not Made*	
	Mud rotary rigs	Made*	
	Earth augers	Uncertain*	
	Other	Uncertain*	
521-19-39	Drilling machinery, mining, nes	Uncertain*	Uncertain*
521-19-41	Drilling machinery, coal, rotary type	-	Not Made
521-19-49	Drilling machinery, coal, nes	-	Not Made
521-19-69	Drilling machinery, earth, nes	Made	Made
	Fishing tools n.o.p.	Uncertain*	Uncertain*
	Reamers, stabilizers and combinations thereof n.o.p.	Uncertain*	Uncertain*
Classes for which specific clause is to be determined			
521-19-29	Boring machinery, mining, nes	Not Made	Not Made
521-19-59	Boring machinery, earth, nes	Not Made	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

On the basis of information provided by the Canadian Association of Oilwell Drilling Contractors (CAODC), the made-in-Canada status of diamond drilling bits for use in oilwell drilling (c.c. 521-01-30) has been changed to "not made". It is also the view of the Canadian Water Well Association that "various diamond drilling bits" are goods "of a class or kind not made in Canada".

Secondly, as the result of representations by Western Rock Bit Company Limited of Calgary - the only known Canadian manufacturer of rotary roller cone, steel-tooth and carbide insert bits, and an importer and distributor of rotary bits used in the mining industry - the status of all goods encompassed by class 521-07-90 ("rock drill bit, rotary, nes") has been changed to "not made", with a view to providing a rationale for retaining the duty-free treatment presently accorded to these goods and their components.

In view of doubts raised by the Canadian Water Well Association, changes have been made in the designation of certain of the goods falling under commodity class 521-17-41 ("well drilling machinery, water"). It is understood that National Revenue presently holds rigs with a capacity to drill

a hole to a depth of 2,500 feet to be "of a class or kind made in Canada". However, at the public hearing, the CWWA contended that cable tool rigs and earth augers, being equipment used in drilling for water, are not manufactured in Canada. Subsequently, in a communication to the Board, this contention, with respect to augers, has been challenged by Seismic Drills International Limited, which claims to produce auger type drill rigs, as well as air rotary rigs and mud rotary rigs, used in the exploration and development of water resources.

Finally, in those instances where the commodity class description clearly specifies, not only the nature of the goods, but also the sector of industrial activity (e.g. "well drilling machinery, natural gas": c.c. 521-17-13), the provisional made-in-Canada determination as originally reported in Table 4 has been deleted in relation to the inappropriate industrial grouping (i.e. in the example cited, in relation to mining and other natural resource development).

It will be noted that, in addition to this latter kind of difference, there are some other instances in which the made-in-Canada designations of the goods in respect of the two main industrial groupings are not identical, although there are only two commodity classes (i.e. 521-01-30: "core drill bit, diamond type", and 521-01-40: "core drill bit, non-diamond type") in respect of which the status reports are diametrically opposed. In the case of mounted air percussion rock drills for underground use (c.c. 521-03-30) and stoper drills (c.c. 521-03-60) it is presently understood that Canadian manufacturers make goods with a piston diameter of 3 1/8" or less for oilfield use but of 3 1/4" or less for mining operations.

Observations are invited in regard to the various differences indicated above, as well as in relation to the made-in-Canada status of any classes of goods designated as "uncertain" under one or both of the industrial groupings. In the case of one of these "uncertain" classes (c.c. 521-19-39: "drilling machinery, mining, nes") the class description is broad enough to comprehend several categories of goods, so a more specific listing of products, with an indication of their made-in-Canada status, is required. Likewise, a more exact description of the "boring machinery, mining/earth, nes", encompassed by commodity classes 521-19-29 and 521-19-59, would be helpful. For goods covered by the last two eo nomine provisions of these tariff items, i.e. fishing tools and reamers, stabilizers and combinations thereof, no specific commodity classes have been identified, while the made-in-Canada status of the relevant products is unknown.

Tariff Proposals

The Mining Association of Canada (MAC) proposes:

A. Before the end of 1986

- (i) making provision in a dutiable eo nomine tariff item for drill rods (acknowledged by MAC to be made in Canada);
- (ii) listing "rock bits, rotary, roller cone, steel tooth, tungsten and carbide inserts three and three-quarters inch or more" as "not made" goods in a duty-free eo nomine provision;
- (iii) determining the made-in-Canada status of other (unspecified) goods on import, the "made" goods to be dutiable under a general provision, and the "not made" goods to be allowed free entry;

B. At the beginning of 1987

- (iv) establishing a basket provision for relevant goods not then categorized as either "made" or "not made", with a M.F.N. duty of 9.2 p.c., subject to remission in cases of non-availability;
- (v) updating the eo nomine listing of goods (vide (i) and (ii) above) by adding those commodities categorized under the general provisions proposed in (iii);

C. General

- (vi) making amendments to the eo nomine listings of goods, as appropriate, through the use of a modified version of Section 12 of the Customs Tariff;
- (vii) allowing duty-free entry under GATT to "articles for use in the manufacture, repair or construction of goods" classifiable under the aforementioned provisions;
- (viii) in a submission made subsequent to the hearing, the Association has re-affirmed the above, but has added a proviso that present tariff provisions should be left unchanged unless there is also recommended some avenue of appeal to an independent body and the courts from decisions of bodies administering availability provisions, a revised version of Section 12 of the Customs Tariff or Section 273 of the Customs Act.

The Canadian Petroleum Association (CPA) recommends in its brief:

- (i) replacement of existing tariff provisions by a single item with a weighted average rate of duty. (However, this position was subsequently changed during testimony at the public hearing);
- (ii) an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item";
- (iii) no additions to be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada;
- (iv) annual verification of the list of "made" products;
- (v) extension of present end-use preferential rates of duty to include goods used in the exploration, development and production of any products from petroleum and/or natural gas.

The Canadian Association of Oilwell Drilling Contractors (CAODC), in a general submission, states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection;
- (v) with specific reference to these two items: diamond drilling bits (oilwell drilling) should be classed as not made in Canada.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) incorporating all pertinent goods under a single dutiable item with the bound rate of 9.2 p.c., and with provision for duty remission based on non-availability;
- (ii) determining eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

The Canadian Oilfield Manufacturers Association favours:

- (i) an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing oilfield machinery and apparatus;
- (ii) separate treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources;
- (iii) if (i) above should not be acceptable, retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages";
- (iv) in the event of an eo nomine approach being adopted, making dutiable all relevant items with bound rates other than Free [including tariff items 41001-1 and 41002-1] and providing duty relief, in appropriate cases, by use of Section 12 of the Customs Tariff. (Initially, this section would be applied "to all items not presently being charged a duty under the made/not made approach").

Canadian General Electric Company Limited, in a general submission, proposes:

- (i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;

- (ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;
- (iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Jarvis Clark Limited, North Bay, Ontario, which assembles tire-tracked pneumatic/hydraulic jumbo drills (c.c. 521-03-70) from imported and Canadian parts, requests:

- (1) retention of the present ("not made") duty-free treatment accorded to jumbo drills in order that the parts imported by the firm (notably, hydraulic type rock drills, Deutz diesel engines, transmissions, axles, torque converters and booms) may continue to qualify for free entry.

In a supplementary written statement to the Board, this request is opposed by the Machinery and Equipment Manufacturers' Association of Canada, which states that "the type of drill frames and the drill units and controls which Jarvis Clarke imports and mounts on its vehicles, are made by several Canadian manufacturers".

Western Rock Bit Company Limited, which manufactures and imports rotary drill bits, requests:

- (1) "rock bits, rotary roller cone, steel tooth and carbide insert 3 3/4 inches or more" be considered not made in Canada, and allowed duty-free entry.

The Canadian Water Well Association proposes:

- (i) amending the preamble to tariff items 49101-1 to 49110-1 (covering the exploration and development of resources of oil, natural gas, potash and rock salt) to include water well drilling. (Thereby, water well drilling rigs would qualify for duty-free entry under non-referred item 49103-1, while drilling rig parts would fall under referred items 49104-1 ("made" goods) and 49105-1 ("not made" goods);
- (ii) preparing eo nomine listings to replace tariff items 49104-1 and 49105-1;
- (iii) distinguishing between the different types of water well drilling rigs required for drilling in the varied Canadian surface soil compositions;
- (iv) classifying parts in accordance with their own made-in-Canada status rather than on the basis of the status of their associated furnished products;
- (v) providing for changes in eo nomine listings of goods through the use of a revised Section 12 of the Customs Tariff;
- (vi) as a less-favoured alternative to (v) above, making the goods subject to duty remission when not available from domestic sources.

Subsequent to the public hearing, the CWWA advanced the following proposals:

Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs
entitled to entry under tariff item 49103-1;
Fishing tools, n.o.p.;
Reamers, stabilizers and combinations thereof, n.o.p.;
All the foregoing for use in the exploration or drilling
for water, oil, natural gas or minerals, or in mining or
quarrying:

41001-1 Of a class or kind made in Canada; parts thereof other than
the following:

1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			

41001-2 Cable tool drilling rigs; parts of the foregoing

Free	Free	Free	Free	Free
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41001-3 Top drive rotary drilling rigs; parts of the foregoing other
than the following:

1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			

Hydraulic piston pumps, gear pumps stacker valves and valve
assemblies. Regulator valves, relief valves, control
valves, pressure reducing valves, rotation head drive
motors, fan motors, special cylinders, gauges, power
tongs, power jub, breakout wrenches, air compressors,
250 P.S.I.G., and up. Separators, coolers, lubricators,
line oilers, water injection pumps, dust control assem-
blies, barrel loaders, clutches, gear boxes, drive assem-
blies, torque tubes, drive lines, roller-chain and casing
hammers. (Single and double head drive assemblies).
Parts thereof

Free	Free	Free	Free	Free
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41001-4 Table rotary drilling rigs operated by a kelly bar; parts of
the foregoing other than the following:

1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			

Bevel gear case assembly chain transfer cases, transmis-
sions, drive line assemblies, kelly assemblies, clutches,
bushings, brake assemblies, power takeoff assemblies, air
compressors 250 P.S.I.G. and up, break out tongs and
wrenches. Rotary table, fluid couplings, sand reels,
swivels, draw-works, hydraulic pumps, drive assemblies and
valves. Parts thereof:

Free	Free	Free	Free	Free
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41002-1 Of a class or kind not made in Canada, n.o.p.; parts thereof

Free	Free	Free	Free	Free
------	------	------	------	------

The Canadian Association of Geophysical Contractors (CAGC), in a general submission, proposes:

(i) geophysical products and their material inputs (i.e. raw materials, semi-finished goods and completed products) be allowed duty remission based on an availability criterion, as in the case of the Machinery Duty Remission Program.

Staff Appraisal

1. Tariff items 41001-1 and 41002-1 relate to quite specific products imported for specified purposes. It should, therefore, be possible to construct eo nomine items based on listing either "made" or "not made" products, or both. However, in the absence of further information in cases of uncertainty or conflict, decisions will have to be made on the basis of the best available data.

2. The views of Jarvis Clark Limited and Western Rock Bit Company Limited are useful in defining eo nomine items.

3. The other proposals appear to go beyond the scope of the reference in that they encompass such elements as goods covered by non-referred items, additional end uses, and/or changes in the present dutiable treatment of parts.

4. Particularly in view of the fairly specific nature of the coverage of these two items, it is hard to make a case for the existence of "special circumstances" requiring retention of the existing "made/not made" provisions or the introduction of "availability" provisions.

TARIFF ITEM 41012-1 EX.

Existing Tariff Provisions

This tariff item is one of four sharing a common preamble, which forms part of the nomenclature of each of the items. Of the clauses appearing specifically under tariff item 41012-1, only those underlined are relevant to Reference No. 157.

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

41012-1 Mine roof and wall supports and support systems, of metal, including yielding props, chocks, roof-bars, and chock release apparatus, but not including roof bolts or washers or nuts therefor;
Mining machines for extracting and loading minerals directly from the working face of a mine;
Trucks, tractors, or shuttle cars, self-propelled, for use exclusively underground;
Tubes or shells to be inserted in the face for breaking down coal or other minerals by the release of carbon dioxide or compressed air; pipes, tubes and fittings for use therewith;
Parts of all the foregoing;
Conveyors, of a class or kind not made in Canada;
Parts, of a class or kind not made in Canada, for conveyors

Free Free Free Free Free

Conveyors are admissible under the item if they are "of a class or kind not made in Canada". Admissible conveyor parts must also be "of a class or kind not made in Canada", but they may be parts for either "made" or "not made" conveyors. Although goods admitted under the item are free of duty, the bound rate for the underlined clauses was set at 9.2 p.c. in the MTN.

Whereas the average annual value of imports under tariff item 41012-1 amounted to some \$46.2 million in 1978-80, only a very small percentage of this amount was coded to commodity classes relating to conveyors or conveyor parts. Similarly, imports under this item constituted a very small proportion of total imports of conveyors and conveyor parts.

Conveyors not qualifying for entry under this or some other end-use item would generally be classified under tariff item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Conveyors which are not machines would usually be classified as unspecified manufactures of the component material of chief value - e.g. of iron or steel under tariff item 44603-1, with a bound rate of 10.2 p.c. Conveyor parts not covered by this or some other end-use item would be classified under any

relevant eo nomine non-n.o.p. item, failing which, when regarded as parts of machines, under item 42700-1, or otherwise according to their own nature or material. In the latter case, the bound rate would usually be 10.2 p.c.

Provisional Made-in-Canada Status of Goods

a) Published Rulings

Although there are published rulings holding certain conveyors to be of "a class or kind made in Canada", there are no published rulings, relevant to this item, concerning conveyors or conveyor parts of a class or kind not made in Canada.

b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 3, Table 4, sets out the provisional made-in-Canada status of the commodity classes relevant to this tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
Conveyors		
511-81-29	Conveyor, bulk, chain type, nes	Made
511-81-49	Conveyor, bulk, nes	Made*
511-81-89	Conveyor/conveying system, nes	Made
Parts for conveyors		
511-99-20	Conveyor, bulk, chain & flight type, parts of	Made
511-99-49	Conveyor, bulk type, nes, parts of	Made
511-99-89	Conveyor/conveying system, nes, parts of	Made

* Indicates a change from Table 4.

Commodity class 511-81-49 was not included in Table 4 because it was reported to the Board as "made" and no imports under item 41012-1 were coded to this class in 1978.

Tariff Proposals

The Mining Association of Canada (MAC), in a general submission, proposes making provision in a dutiable eo nomine tariff item for goods known and acknowledged to be made in Canada. Conveyors would be included in such an item.

Unilok, the Belting Division of Georgia Duck & Cordage Mill, proposes that solid woven PVC conveyor belting specifically designed for use in underground potash mining be provided for as goods of a class or kind not made in Canada.

However, two Canadian producers of conveyor belts/belting, namely, Goodyear Canada Inc., and Uniroyal Ltd., have indicated that they make and sell competitive products suitable for the aforementioned use, while American Biltrite (Canada) Ltd. informed the Board at the public hearing of its intention to commence the production of belting and P.V.C. belting in the spring of 1981. The application of Unilok has also been opposed by Dominion Textile Inc., a supplier of materials used in the manufacture of such belts and belting. Both Uniroyal Ltd. and Dominion Textile Inc., submit that belting (considered as "materials"), as opposed to belts (viewed as "parts"), is outside the scope of tariff item 41012-1.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes that the pertinent tariff provisions applying to conveyors and parts for conveyors should be deleted.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc., - in a general submission applying to the referred tariff provisions encompassing mining and metal-processing machinery and apparatus, advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources. (If conveyors and parts for conveyors are accepted as "made" they would fall under this provision).

Staff Appraisal

1. Since the referred provisions of item 41012-1 purport to cover conveyors and parts of conveyors of a class or kind not made in Canada, while the Board has been advised that all relevant commodity classes imported under the item in 1978 are "made", it would appear either that goods similar to those actually produced in Canada obtained entry as "not made" goods by virtue of the "10 per cent share of the market" rule, or the commodity classes in question are too broad for present purposes and require further refinement.

2. In the absence of any definitive information regarding pertinent goods of a class or kind not made in Canada, the provisions for conveyors and parts for conveyors might be deleted from item 41012-1. The goods would revert for the most part to item 42700-1, under which duty remission could be provided for goods not available in Canada.

3. Alternatively, a new dutiable item, for conveyors and parts for conveyors might be created having the same end-use applications as item 41012-1.

4. With respect to conveyor belts/belting, the evidence appears to support the contention of Uniroyal Ltd. and Dominion Textile Inc., that belting is outside the scope of tariff item 41012-1.

TARIFF ITEMS 41013-1 AND 41014-1

Existing Tariff Provisions

These two items fall under the general preamble to items 41011-1 to 41014-1, worded as follows:

Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:

More specifically, these two items provide for the following named goods when for use for the purposes specified above:

Air engines;
Coal cutting machines;
Dust collectors;
Elevating platforms, including raise climbers, for use underground;
Flame-proof enclosed driving motors;
Loading machines, including draglines and power shovels;
Machinery and apparatus, including the hulls of dredges, floating or shore discharge pipeline or booster station equipment, to be incorporated into dredging plants;
Pumps, vacuum pumps, fans, blowers or compressors;
Scales for use with conveyors:

41013-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			
41014-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c. but free entry continues to be accorded under tariff item 41014-1. As the classification of parts follows the classification of the named goods, the made-in-Canada status of the parts is not a pertinent issue.

In 1978-79 the average annual value of goods imported under tariff items 41013-1 and 41014-1 amounted to \$5.1 million and \$94.0 million respectively. Parts (as opposed to finished products) appear to have accounted for nearly half of all imports judged to be properly classified under the two items.

Failing classification under the above items or other end-use items, most of the goods named above would fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Air motors would be classified under 42805-1, some electric motors under 44516-1, fans under 44524-1 and scales under 46105-1. Some apparatus might fall under such items as 40000-1, 44603-1 or even 71100-1.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The following D51 Memoranda have been published by Customs and Excise with respect to the made-in-Canada status of goods which appear to be entitled to entry under the above-mentioned tariff items: D51-8 (compressors); D51-12 (pumps); D51-13 (scales for use with conveyors); D51-21 (mine car loaders; front-end loaders; cranes).

(b) Commodity Classes

The following listing based upon a modified version of the information contained in Background No. 3, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:	
Air engines	
502-69-30 Motors, air, rotary vane type	Not Made
502-69-39 Motors, air, rotary type, nes	Not Made
502-69-40 Motors, air, axial piston type	Not Made
502-69-50 Motors, air, linear reciprocating type	Not Made
502-69-60 Engines, compressed air	Not Made
502-69-89 Motors, air, nes	Not Made
Coal cutting machines	
521-48-90 Coal cutting machine, nes	Not Made
Dust collectors	
502-79-29 Air purification machinery/equipment, industrial, nes	Made
502-79-39 Dust collection machinery/equipment, industrial, nes	Made
Elevating platforms, including raise climbers, for use underground	
521-68-62 Hoist, mining	Made
Flame-proof enclosed driving motors	
502-18-29 Engines, semi-diesel, nes	Not Made
502-18-39 Engines, diesel, nes, 100 brake horsepower & under	Not Made
502-18-49 Engines, diesel, nes, over 100, to 200 brake horsepower	Not Made
502-18-59 Engines, diesel, nes, over 200, to 500 brake horsepower	Not Made

502-18-69	Engines, diesel, nes, over 500, to 1,000 brake horsepower	Not Made
502-18-79	Engines, diesel, nes, over 1,000 to 1,500 brake horsepower	Not Made
502-18-89	Engines, diesel, nes, over 1,500 brake horsepower	Not Made
502-99-49	Motors, hydraulic, general purpose nes	Not Made*
503-67-40	Motors, electric, AC over 1 hp to under 20 hp	Made*
503-67-50	Motors, electric, AC 20 hp to 200 hp incl.	Made*
503-67-60	Motors electric, AC over 200 hp 201 to 350 hp	Made*
	Others	Not Made*
503-69-20	Servo motors, electric	Made
503-69-39	Motors, electric, position indicating nes	Not Made
503-69-40	Motors, electric, D C 1/3 hp and under	Not Made
503-69-41	Motors, electric, D C over 1/3 to 1 hp inclusive	Not Made
503-69-42	Motors, electric, D C over 1 hp to under 20 hp	Made*
503-69-43	Motors, electric, D C 20 hp to 200 hp inclusive	Made*
503-69-44	Motors, electric, D C over 200 hp	Made*
503-69-70	Motors, electric, universal	Made*
503-69-84	Motors, electric, traction	Made
503-69-85	Motors, electric, hollowshaft	Made*
503-69-89	Motors, electric, nes	Made*

Loading machines, including draglines and power
shovels

521-28-23	Backhoe, hyd, complete integral machine	Uncertain*
521-28-41	Crane, excav type, cable optd truck/wagon mtd	Uncertain*
521-28-42	Crane, excav type, cable optd, crawler mtd	Uncertain*
521-28-43	Crane, excav type, cable optd, walking type	Made
521-28-54	Shovel, power, excavating, hydraulic, over 1.5 cubic yards	Made
521-28-64	Shovel, power, excavating, cable, over 1.5 cubic yards	Made
	With a capacity to 5 cubic yards	Not Made
	Others	Not Made
521-28-79	Crane, excavating type, nes	Made*
	With a continuous duty cycle to 17,300 pounds	Not Made
	Others	Not Made
521-28-89	Shovel, power, excavating, nes	Made
	With a capacity to 2 cubic yards	Not Made
	Others	Not Made
519-31-31	Loader, log, integral tractor type, log handling	Made
521-31-15	Bucket, integral type backhoe, excavating	Uncertain*
521-31-19	Bucket, power shovel/crane, excavating nes	Uncertain*
521-33-30	Bulldozing mach, integ design, wheel type	Uncertain*
521-35-20	Back-hoe & front end loader, comb, integ dsg	Uncertain*
521-36-30	Loader, front end integ excav wheel type	Uncertain*
521-39-69	Loading machinery, excavating type, nes	Uncertain*
521-39-89	Excavating machinery, nes	Made
521-66-22	Loader, mucker type, underground, mining	Uncertain*
521-66-31	Loader, shovel type, underground, mining Pneumatically-driven rocker arm type (mucking machine)	Not Made
	Others	Made
521-66-90	Loader, underground, for mining, nes Pneumatically-driven rocker arm type (mucking machine)	Not Made
	Others	Made

**Machinery and apparatus, including the hulls of
dredges, floating or shore discharge pipeline
or booster station equipment, to be incor-
porated into dredging plants**

468-99-89	Fittings, pipe, nes	Made
509-85-89	Filtering machinery, industrial, nes	Uncertain*
521-39-29	Dredging machinery, nes	Uncertain*
521-39-69	Loading machinery, excavating type, nes	Made
521-39-89	Excavating machinery, nes	Made

Pumps

504-85-20	Pump, hyd, vane type power trans	Not Made
504-85-30	Pump, hyd, gear type, power trans	Not Made
504-85-40	Pump, hyd, axial piston type, power trans	Not Made
504-85-50	Pump, hyd, radial piston type, power trans	Not Made
504-85-90	Pump, hyd, power transmission, nes	Not Made
508-04-20	Pump, centrif, 1 stage - 1 suction, close cpld	Made*
508-04-30	Pump, centrif, 1 stage - 1 suction, sep cpld	Made*
508-04-40	Pump, centrif, single stage, double suction	Made*
508-04-50	Pump, centrif, multi-stage, single suction	Made*
508-04-60	Pump, centrif, multi-stage, double suction	Made*
508-04-90	Pump, centrif type, nes	Made*
508-50-22	Pump, recip, piston type, power	Made*
508-50-24	Pump, recip, plunger type, power	Made*
508-50-25	Pump, recip, diaphragm type, power	Made*
508-50-26	Pump, recip, direct acting steam type, power	Made*
508-50-27	Pump, air operated type, /pogo/	Made
508-50-29	Pump, reciprocating type, power, nes	Made*
508-50-31	Pump, axial flow, turbine type, power	Made*
508-50-39	Pump, axial flow type, power, nes	Made*
508-50-41	Pump, rotary cam type, power	Made*
508-50-42	Pump, rotary gear type, power	Made*
508-50-43	Pump, rotary vane type, power	Made*
508-50-44	Pump, rotary screw type, power	Made*
508-50-45	Pump, rotary helicoidal type, power	Made*
508-50-49	Pump, rotary type, power, nes	Made*
508-50-51	Pump, sewage type, power	Made
508-50-56	Pump, cryogenic liquid	Made
508-50-62	Pump, jet ejector type, power	Made
508-50-63	Pump, sump type, power	Made
508-50-64	Pump, flow inducer type, power	Made
508-50-66	Pump, submersible, portable, powered	Made
508-50-89	Pump, power, nes	Made
508-95-32	Pump, sum, hand type	Made*
508-95-35	Pump, bilge, hand type	Made*
508-95-37	Pump, water, hand type	Made*
508-95-39	Pump, hand type, nes	Made*
508-95-89	Pump, nes	Made

Vacuum pumps

507-99-1	Pump, vacuum, package unit type, industrial	Made
507-99-42	Pump, vacuum, air type, industrial	Made
507-99-43	Pump, vacuum, gas type, industrial	Made
507-99-49	Pump, vacuum, industrial, nes	Made

Blowers

507-99-21	Blowers, axial type, industrial	Made*
507-99-22	Blowers, centrifugal type, industrial	Made*
507-99-23	Blowers, lobe type, industrial	Made*
507-99-24	Blowers, package unit type, industrial	Made*
507-99-29	Blowers, industrial, nes	Made*

Fans

507-99-31	Fans, axial type, industrial exc package unit	Made
507-99-32	Fans, centrifugal type, ind, exc package unit	Made
507-99-33	Fans, lobe type, industrial	Made
507-99-35	Fans, axial type, package unit	Made*
507-99-36	Fans, centrifugal type, package unit	Made*
507-99-39	Fans, industrial, nes	Made
697-69-40	Fans, exhaust, permanent installation	Made

Compressors

507-11-11	Compressor, air, stat recip liquid cooled, 9 hp <	Not Made
507-11-12	Compressor, air, stat recip liquid cooled, 10 - 25 hp	Made
507-11-13	Compressor, air, stat recip liquid cooled, 26 - 50 hp	Made
507-11-14	Compressor, air, stat recip liquid cooled, 51 - 150 hp	Made
507-11-15	Compressor, air, stat recip liquid cooled, 151 - 300 hp	Made
507-11-16	Compressor, air, stat recip liquid cooled, 301 - 600 hp	Made
507-11-17	Compressor, air, stat recip liquid cooled, >600 hp	Made
507-11-30	Compressor, air, stat recip air cooled, 9 hp <	Made
507-11-33	Compressor, air, stat recip air cooled, 10 - 25 hp	Made
507-11-34	Compressor, air, stat recip air cooled, 26 - 50 hp	Made
507-11-35	Compressor, air, stat recip air cooled, 51 - 150 hp	Not Made
507-11-37	Compressor, air, stat recip package unit	Made
507-11-41	Compressor, air, stat rotary, vane/screw Vane 30 - 40 hp and screw 40 - 50 hp Others	Made Not Made
507-11-42	Compressor, air, stationary, rotary, centrifugal 750 - 140,000 cfm Others	Made Not Made
507-11-43	Compressor, air, stat rotary, package unit	Made
507-11-49	Compressor, air, stat rotary type, nes	Made
507-11-51	Compressor, gas, stat recip 250 hp <	Not Made*
507-11-52	Compressor, gas, stat recip 251 - 1,000 hp 301 - 1,000 hp Others	Made Not Made
507-11-53	Compressor, gas, stat recip over 1,000 hp	Made
507-11-61	Compressor, gas, stationary, centrifugal type	Made
507-11-63	Engine-compressor, gas, reciprocating 90 - 13,500 hp Others	Made* Not Made*
507-11-64	Compressor, gas, for cryogenic service	Made
507-11-65	Compressor, gas, diaphragm type	Not Made
507-11-69	Compressor, gas, stationary, nes	Made
507-11-89	Compressor, air, stationary, nes	Made
507-29-20	Compressor, air, portable, 10 cfm & under	Made
507-29-21	Compressor, air, portable, 11 cfm - 59 cfm	Made
507-29-22	Compressor, air, portable, 60 cfm - 99 cfm	Made
507-29-23	Compressor, air, portable, 100 cfm - 175 cfm	Made
507-29-24	Compressor, air, portable, 176 cfm - 290 cfm	Made
507-29-25	Compressor, air, portable, 291 cfm - 499 cfm	Made
507-29-26	Compressor, air, portable, 500 cfm - 799 cfm	Made
507-29-27	Compressor, air, portable, 800 cfm - 1,099 cfm	Made

507-29-30	Compressor, air, portable, 1,100 cfm - 1,399 cfm	Made
507-29-31	Compressor, air, portable, 1,400 cfm & over	Not Made
507-29-49	Compressor, air, package unit, nes	Made
507-29-89	Compressor, gas, nes	Made*

Scales for use with conveyors

Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The above list of commodity classes no longer reflects exactly the list of classes in Table 4 of Background No. 3, for items 41013-1 and 41014-1. There have been additions and five deletions. The deletions concern mercury pumps (507-99-44), which are specifically provided for under item 41012-1 and should not have been included under these two items, and nes classes 521-68-29, 521-68-39, 521-68-49 and 521-68-89 (see under "Outstanding Questions", below). The additions concern: hydraulic motors (502-99-49), electric motors (503-67-40 and 503-67-50), draglines (521-28-41 and 521-28-42), back-hoes (521-28-24, 521-35-20, 521-31-15), power shovels (521-31-19), bulldozing machinery (521-33-30), front-end loaders (521-36-30), loading machinery (521-39-69), mucking machines (521-66-22), centrifugal pumps (508-04), power pumps (508-50-22 to 508-50-49, excluding 508-50-27), other miscellaneous pumps (508-95-32 to 508-95-39), blowers (507-99-21 to 507-99-29), certain fans (507-99-35 and 507-99-36), non-stationary gas compressors (507-29-89), and filtering machinery (509-85-89).

The classes relating to hydraulic motors have been added as a result of updating in the light of 1979-80 import data. They have been assigned a provisional "not made" status on the understanding that there are no Canadian manufacturers of flame-proof enclosed driving motors except electrical, for the uses stipulated in items 41013-1 and 41014-1. The additional classes encompassing electric motors have been added as the result of information supplied by Canadian General Electric Company Limited, which makes the goods in question (see below). The excavating machinery classes have been added at the request of the Mining Association of Canada and/or as a result of a review of 1979-80 import data. The provisional made-in-Canada status of the pertinent goods is indicated as "uncertain". The classes pertaining to pumps, blowers, fans and compressors have been added by the staff of the Board in order to round out the list of such classes. The added classes covering pumps have been assigned a provisional "made" status, on the basis that all classes covering pumps, except hydraulic pumps, were indicated in Table 4 as covering "made" goods. Likewise, the provisional made-in-Canada status of the added classes covering fans was predicated on the basis of the status of the residual class 507-99-39 ("fans, industrial, nes"). The added classes covering blowers and non-stationary gas compressors were assigned a provisional made-in-Canada status on the basis of the information indicated in the

background material for items 41022-1 and 41023-1. The class embracing filtering machinery was added on the basis of 1979-80 import data. Its provisional made-in-Canada status is indicated as "uncertain".

Some changes have also been made to the information previously contained in Table 4. It will be noted that the categorization of goods under commodity class 521-28-79 ("crane excavating type, nes") has been altered. It is now understood that the types of crane of interest to the mining industry are set up as draglines and, as such, only those with a continuous duty cycle of 17,300 pounds or less are believed to be made in Canada.

Notwithstanding that certain commodity classes covering diesel engines and electric motors may be shown as "made" in relation to other referred tariff items, in this instance the nomenclature requires that they should be flame-proof enclosed, and as such some may be considered to be "not made" in Canada. Canadian General Electric Company Limited has indicated that it manufactures electric induction motors, 350 horsepower and below which have been certified by the Canadian Standards Association (CSA) as flame-proof enclosed for use in coal mines. The firm also manufactures induction as well as direct current motors which have been certified for use in environments where explosions might occur due to the presence of hydrocarbon vapours or gases, metal dust, carbon black or natural dust. As a result of this information, the provisional made-in-Canada status of certain flame-proof enclosed electric motors shown in Table 4 has been altered to "made". It is not known to what extent these "made" determinations would be appropriate to other end uses encompassed by the nomenclature.

Cooper Energy Services Limited has indicated that it manufactures reciprocating gas-engine compressors with a capacity of 13,500 hp (commodity class 507-11-63) and "would make larger units if the market so desired". It is also concerned that in relation to commodity class 507-11-51, engines up to 150 hp, should be shown as being made in Canada, inasmuch as it plans on producing such engines.

Outstanding Questions

Further observations are invited concerning the goods cited by the Mining Association of Canada, Cooper Energy Services Ltd., and Canadian General Electric Company Limited (see above), and the various goods covered by other starred commodity classes.

Attention is also drawn to the following commodity classes, which accounted for approximately 2 per cent of total imports under both the referred items in 1978-80, and which have such general descriptions as to comprehend various classes or kinds of goods.

521-68-29 Mining machinery & equipment, open pit type, nes
521-68-39 Mining machinery & equipment, alluvial type, nes
521-68-49 Quarrying machinery & equipment, nes
521-68-89 Mining machinery & equipment, nes

In Table 4 of Background No. 3, the provisional made-in-Canada status of these classes was indicated as "uncertain" in relation to the two aforementioned tariff items.

Tariff Proposals

The Mining Association of Canada (MAC) proposes:

A. Before the end of 1986

- (i) making provision in a dutiable eo nomine tariff item for slushers (acknowledged by MAC to be made in Canada);
- (ii) listing air engines, draglines, front-end loaders (size range to be determined), mucking machines, power shovels, (hydraulic over 1.5 cubic yards and cable over 5 cubic yards) as "not made" goods in a duty-free eo nomine provision;
- (iii) determining the made-in-Canada status of other (unspecified) goods on import, the "made" goods to be dutiable under a general provision, and the "not made" goods to be allowed free entry;

B. At the beginning of 1987

- (iv) establishing a basket provision for relevant goods not then categorized as either "made" or "not made", with a M.F.N. duty of 9.2 p.c., subject to remission in cases of non-availability;
- (v) updating the eo nomine listing of goods (vide (i) and (ii) above) by adding those commodities categorized under the general provisions proposed in (iii);

C. General

- (vi) making amendments to the eo nomine listings of goods, as appropriate, through the use of a modified version of Section 12 of the Customs Tariff;
- (vii) allowing duty-free entry under GATT to "articles for use in the manufacture, repair or construction of goods" classifiable under the aforementioned provisions;
- (viii) in a submission made subsequent to the hearing, the Association has re-affirmed the above, but has added a proviso that present tariff provisions should be left unchanged unless there is also recommended some avenue of appeal to an independent body and the courts from decisions of bodies administering availability provisions, a revised version of Section 12 of the Customs Tariff or Section 273 of the Customs Act.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) placing "pumps, vacuum pumps, fans, blowers or compressors", and "loading machines including draglines and power shovels", together with valves, engines and motors, under a separate dutiable tariff item having general applicability, with provision for duty remission based on non-availability;
- (ii) determining eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Greening Donald Co. Ltd., proposes:

- (i) making parts subject to their own made-in-Canada determination, rather than relating their status to that of the finished product of which they are a part, as is presently the case;
- (ii) in the event that (i) above is not acceptable, providing in a separate dutiable item for wire cloth, wire screens and perforated metals as parts of dust collectors, and for various wire ropes as parts of loading machines, including draglines and power shovels. (Parameters circumscribing the "made" products are not indicated).

Union Carbide Canada Limited proposes:

- (i) excluding parts made in Canada from end-use tariff items such as 41014-1;
- (ii) or if (i) above, would not be acceptable, making specific [dutiable] provision for carbide and graphite brushes of a class or kind made in Canada when for use in motors, compressors and generators, in order that their made-in-Canada status would not be dependent upon the status of the goods of which they are a part;
- (iii) as a further option, removing the end-use provision in relation to electric shovels and draglines, thus allowing carbide and graphite brushes to be classified as parts of generators and electric motors under dutiable items 44514-1 and 44516-1 respectively.

Cooper Energy Services Ltd., in the context of these items, proposes:

- (i) if the Board should recommend the continuation of the end-use items now under review, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;

(ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff;

(iii) in order to protect the company's production of rotary centrifugal gas compressors with capacities over 140,000 cfm (which can also compress air), there should be no reduction in duty on stationary rotary air compressors of over 140,000 cfm [c.c. 507-11-42], deemed to be of a class or kind not made in Canada;

(iv) there should be no duty exemption for stationary reciprocating gas compressors up to 150 hp [c.c. 507-11-51] or for reciprocating gas-engine compressors over 13,000 hp [c.c. 507-11-63].

Canadian General Electric Company Limited, in a general submission, proposes:

(i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;

(ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;

(iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Staff Appraisal

1. Unless information is forthcoming with respect to the made-in-Canada status of "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or any other available pointers.

2. The temporary tariff arrangements proposed by the Mining Association of Canada as a means of obtaining more definitive listings, even if acceptable on other grounds, may not, in terms of resulting additional information, justify the associated administrative costs and inconvenience.

3. The circumstances relating to the goods falling under the aforementioned tariff items do not seem sufficiently "special" as to warrant the application of "availability" criteria, either on a temporary or permanent basis.

4. The proposal by the Mining Association of Canada for providing all pertinent parts with duty-free entry, regardless of the made-in-Canada status of such parts, or that of their associated finished products, appears to go beyond the scope of the terms of this inquiry.

5. The proposal by the Mining Association of Canada to provide specifically for mucking machines would require further definition of these goods in order to exclude them from classification under the non-referred part of tariff item 41012-1 as "mining machines for extracting and loading minerals directly from the working face of a mine".

6. The proposals by Greening Donald Co. Ltd. and Union Carbide Canada Limited for allowing parts of a class or kind made in Canada to be treated separately from the main goods, appear to go beyond the scope of the reference.

7. The proposal by Cooper Energy Services Ltd. for the exclusion of compressors from any end-use tariff arrangement would, in the absence of a new provision for compressors, have the effect of placing these goods under the Machinery Duty Remission Program, thus entailing the application of "availability" criteria (see 3, above).

8. While, for the purpose of providing duty relief on otherwise dutiable articles, recourse to a mechanism such as that provided by Section 12 of the Customs Tariff does not appear to be warranted by the circumstances applying to the goods in question, consideration might be given to the use of existing Section 17 of the Financial Administration Act to effect a temporary reduction in duties for domestic industrial policy reasons.

9. Alternatively, in view of the comparatively large number of "made" commodity classes designated in relation to tariff items 41013-1 and 41014-1, and in view of the M.F.N. bindings of 9.2 p.c. applying to both of these items, there might seem to be some merit in bringing the relevant goods under a single item utilizing the present (largely eo nomine) nomenclature and with a M.F.N. rate of duty of 9.2 p.c.

10. There is merit in the proposal by the Machinery and Equipment Manufacturers' Association of Canada for the establishment of a new item covering various general-purpose goods, such as valves, motors, engines, compressors, pumps, fans and blowers, which could recur under a number of separate provisions. However, except for pumps, fans, blowers and compressors, entering under items 41013-1, 41014-1, 41022-1 and 41023-1, the recurrence of general-purpose goods in the mining machinery schedule (as opposed to the oilfield equipment schedule) appears to be limited and might not warrant their inclusion in a separate tariff item.

TARIFF ITEM 41021-1 EX.

Existing Tariff Provisions

This tariff item is one of four sharing a common preamble, which forms part of the nomenclature of each of the items. Of the clauses appearing specifically under tariff item 41021-1, only those underlined are in any way relevant to Reference No. 157. The item reads:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

41021-1 Machinery and apparatus for sintering or pelleting iron ore, concentrated or not, or flue dust;
Machinery and apparatus for use in the construction, equipment and repair of blast furnaces for smelting iron ore, such machinery and apparatus to include blast furnace fans, blowers or compressors, hot blast stoves and burners, blast piping and valves connecting the fans, blowers or compressors with the furnace, scale cars, charging and hoisting apparatus, blast furnace gas piping, cleaners and washers;
Machinery and apparatus, of a class or kind not made in Canada, for use exclusively in handling materials to be charged into a blast furnace or an electric smelting furnace, from the dock, car or stock pile, at the smelting works;
Machinery for the extraction of precious metals by the chlorination or cyanide processes, not including pumps, vacuum pumps, fans, blowers or compressors;
Mercury pumps;
Non-metallic heating elements;
Parts of all the foregoing

Free Free Free Free Free

Free entry under the referred provision of the item is bound under GATT. The "parts" provision is relevant only in that it provides bound free entry for parts of the "not made" machinery and apparatus covered by the underlined clause, regardless of whether or not such parts are themselves of a class or kind made in Canada. In the case of machinery and apparatus excluded from the item because they are "made", parts thereof are also excluded, regardless of their own made-in-Canada status.

In 1978-80 the average annual value of imports under both the referred and non-referred provisions of tariff item 41021-1 totalled \$15.8 million. Insofar as it has been possible to determine, only a very small proportion of this total comprised goods falling under the referred provisions.

When made in Canada, and not falling under any other end-use item, the goods described in the referred clause, if machinery, would fall under item 42700-1 with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Other relevant provisions include item 61000-1 ("belting, n.o.p."), with a bound rate of 17.5 p.c., and the items providing for unspecified manufactures of various materials, mostly with a bound rate of 10.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings as to the made-in-Canada status of any of the goods listed in the relevant extracts of item 41021-1.

(b) Commodity Classes

Only one commodity class (i.e. 469-59-39) was identified in Table 4, Background No. 3 on the basis of 1977-78 import data. That class, which pertains to woven wire belting, has now been deleted from further consideration as referring to neither machinery nor apparatus, as required by the pertinent provision of the item. On the other hand, several other possible classes are now introduced; observations with respect to their relevance and made-in-Canada status are invited.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus for use exclusively in handling materials to be charged into a blast furnace or an electric smelting furnace, from the dock, car or stock pile, at the smelting works	
511-81-89 Conveyor, conveying systems, nes	Made*
519-99-49 Charge & decharge equipment, furnace, nes	Made*
519-99-89 Materials handling equipment, nes	Made*

* Indicates a change from Table 4.

In view of the fact that all relevant commodity classes are provisionally held to be "made", further information is required regarding any goods of "classes or kinds not made in Canada" which would be admissible under the item.

Tariff Proposals

No specific representations have been received by the Board with respect to the referred part of this tariff item. However, the relevant goods are covered by some of the more general proposals.

Union Carbide Canada Limited, which, on occasion, imports furnace stoking machines, proposes:

- (i) broadening the end use of the aforementioned - and certain other - tariff provisions to cover the needs of the petrochemical industry;
- (ii) in this connection, establishing a new duty-free tariff item;
- (iii) alternatively, making the pertinent goods subject to duty remission based on non-availability.

The Mining Association of Canada (MAC) proposes:

A. Before the end of 1986

- (i) making provision in a dutiable eo nomine tariff item for goods known and acknowledged to be made in Canada;
- (ii) listing known "not made" goods in a duty-free eo nomine provision;
- (iii) determining the made-in-Canada status of other (unspecified) goods on import, the "made" goods to be dutiable under a general provision, and the "not made" goods to be allowed free entry;

B. At the beginning of 1987

- (iv) establishing a basket provision for relevant goods not then categorized as either "made" or "not made", with a M.F.N. duty of 9.2 p.c., subject to remission in cases of non-availability;
- (v) updating the eo nomine listings of goods (vide (i) and (ii) above) by adding those commodities categorized under the general provisions proposed in (iii);

C. General

- (vi) making amendments to the eo nomine listings of goods, as appropriate, through the use of a modified version of Section 12 of the Customs Tariff;
- (vii) allowing duty-free entry under GATT to "articles for use in the manufacture, repair or construction of goods" classifiable under the aforementioned provisions;
- (viii) in a submission made subsequent to the hearing, the Association reaffirms the above, but adds a proviso that present tariff provisions should be left unchanged unless there is also recommended some avenue of appeal to an independent body and the courts from decisions of bodies administering availability provisions, a revised version of Section 12 of the Customs Tariff or Section 273 of the Customs Act.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) incorporating all pertinent goods, with the exceptions of those in (ii) below, under a single dutiable end-use item, with provision for duty remission based on non-availability;

- (ii) placing fans, blowers, compressors pumps, vacuum pumps and pumping machinery, loading machines (including drag lines and power shovels), valves, engines and motors, under a separate dutiable tariff item having general applicability, with provision for duty remission based on non-availability;
- (iii) determining eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dominion Foundries & Steel Ltd., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Staff Appraisal

1. If no information should be forthcoming regarding any "not made" goods, and in view of the low value of imports of materials handling equipment and parts thereof, the simple elimination of the clause merits consideration.

2. The request by Union Carbide Canada Limited for the end-use application of the relevant tariff provision to be extended to the petrochemical industry is judged to go beyond the scope of the reference.

3. The circumstances relating to the goods encompassed by the relevant part of the item do not seem sufficiently "special" as to merit the general application of "availability" criteria. However, in the event of the pertinent tariff provision being deleted, such of the goods as would revert to tariff item 42700-1 would become subject to the existing Machinery Duty Remission Program.

TARIFF ITEMS 41022-1 AND 41023-1

Existing Tariff Provisions

These two items share a common heading with items 41020-1 and 41021-1. They are worded as follows:

Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:

Agitators;
Amalgam cleaners;
Automatic ore samplers;
Fans, blowers or compressors, of iron or steel;
Classifiers;
Converting apparatus for metallurgical processes;
Feeders, mechanical;
Filters;
Flotation machines, flotation cells, and oil feeders and reagent feeders therefor;
Furnace slag trucks and slag pots;
Pyrometers;
Retorts;
Screens, including oscillating, revolving, shaking, stationary, travelling and vibrating screens, and grizzlies;
Separators, including jigs and magnetic or electric separators and magnetic pulleys;
Thickeners;
Chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations;
Machinery and apparatus for use in the refining of metals or in roasting or smelting or in the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes;
Machinery and apparatus for use in washing, screening, drying or dry cleaning coal:

41022-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			
41023-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41023-1. As the classification of parts follows the classification of the named goods, the made-in-Canada status of the parts is not a pertinent issue.

In 1978-80 the average annual value of goods imported under tariff items 41022-1 and 41023-1 amounted to \$12.6 million and \$22.6 million respectively. Parts (as opposed to finished products) appear to have accounted for almost three quarters of all imports judged to be properly classified under both items.

In the absence of classification under these or other end-use provisions, most of the relevant goods would probably fall under tariff item 42700-1, with a bound rate of 9.2 p.c., but subject to the Machinery Duty Remission Program. Some furnaces and a few other products might be classified under the electrical schedule, while some apparatus, not being machinery or used directly with machines, would be classified according to its own nature (e.g. as castings under tariff item 39101-1 or 39102-1), or as unspecified manufactures of the component material of chief value (e.g. as manufactures of iron or steel under tariff item 44603-1 - bound rate of 10.2 p.c.).

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The following D51 Memoranda have been published by Customs and Excise with respect to the made-in-Canada status of goods falling under the abovementioned tariff items: D51-7 (screens); D51-8 (compressors, dispersers); D51-9 (oil burners); D51-12 (pumps, continuous casting machines); D51-13 (roasting furnaces, rotary kilns, feeders, mill tables, magnetic separators); D51-39 (furnaces).

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 3, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus for use in the processing, smelting or refining of ores, metals or minerals, namely:	
Agitators	
469-72-89 Tanks, metal, nes (except containers)	Made
Amalgam cleaners	
521-68-89 Mining machinery and equipment, nes	Uncertain*
Automatic ore samplers	
521-68-52 Samplers, ore, for mining	Made
Fans, blowers or compressors, of iron or steel	
507-99-29 Blowers, industrial, nes	Made
507-99-31 Fans, axial type, industrial exc package unit	Made*
507-99-32 Fans, centrifugal type, ind, exc package unit	Made*
507-99-33 Fans, lobe type, industrial	Made*
507-99-35 Fans, axial type, package unit	Uncertain*

507-99-36	Fans, centrifugal type, package unit	Uncertain*
507-99-39	Fans, industrial, nes	Made*
507-11-11	Compressor, air, stationary, reciprocating, liquid cooled, 9hp & <	Not Made
507-11-12	Compressor, air, stationary, reciprocating, liquid cooled, 10-25 hp	Made
507-11-13	Compressor, air, stationary, reciprocating, liquid cooled, 26-50 hp	Made
507-11-14	Compressor, air, stationary, reciprocating, liquid cooled, 51-150 hp	Made
507-11-15	Compressor, air, stationary, reciprocating, liquid cooled, 151-300 hp	Made
507-11-16	Compressor, air, stationary, reciprocating, liquid cooled, 301-600 hp	Made
507-11-17	Compressor, air, stationary, reciprocating, liquid cooled, >600 hp	Made
507-11-30	Compressor, air, stationary, reciprocating, air cooled, 9 hp & <	Made
507-11-33	Compressor, air, stationary, reciprocating, air cooled, 10-25 hp	Made
507-11-34	Compressor, air, stationary, reciprocating, air cooled, 26-50 hp	Made
507-11-35	Compressor, air, stationary, reciprocating, air cooled, 51-150 hp	Not Made
507-11-37	Compressor, air, stationary, reciprocating, package unit	Made
507-11-41	Compressor, air, stationary, rotary, vane/screw Vane 30-40 hp and screw 40-50 hp Others	Made Not Made
507-11-42	Compressor, air, stationary, rotary, centrifugal 750-140,000 cfm Others	Made Not Made
507-11-43	Compressor, air, stationary, rotary, package unit	Made
507-11-49	Compressor, air, stationary, rotary type, nes	Made
507-11-51	Compressor, gas, stationary, reciprocating, 250 hp & <	Not Made*
507-11-52	Compressor, gas, stationary, reciprocating, 251-1,000 hp 301-1,000 hp Others	Made Not Made
507-11-53	Compressor, gas, stationary, reciprocating, over 1,000 hp	Made
507-11-61	Compressor, gas, stationary, centrifugal type	Made
507-11-63	Engine-compressor, gas, reciprocating 90-13,500 hp Others	Made* Not Made*
507-11-65	Compressor, gas, diaphragm type	Not Made
507-11-69	Compressor, gas, stationary, nes	Made
507-11-89	Compressor, air, stationary, nes	Made
507-29-20	Compressor, air, portable, 10 cfm & under	Made
507-29-21	Compressor, air, portable, 11 cfm - 59 cfm	Made
507-29-22	Compressor, air, portable, 60 cfm - 99 cfm	Made
507-29-23	Compressor, air, portable, 100 cfm - 175 cfm	Made
507-29-24	Compressor, air, portable, 176 cfm - 290 cfm	Made
507-29-25	Compressor, air, portable, 291 cfm - 499 cfm	Made
507-29-26	Compressor, air, portable, 500 cfm - 799 cfm	Made
507-29-27	Compressor, air, portable, 800 cfm - 1,099 cfm	Made
507-29-30	Compressor, air, portable, 1,100 cfm - 1,399 cfm	Made
507-29-31	Compressor, air, portable, 1,400 cfm & over	Not Made
507-29-49	Compressor, air, package unit, nes	Made
507-29-89	Compressor, gas, nes	Made

Classifiers

521-46-25	Classifier, mining type	Made
521-46-59	Classifier, quarrying type, nes	Made

Converting apparatus for metallurgical processes

505-09-30	Furnace, metal melting/smelting/refining, non-electric - other than:	Made
	Rotating open-hearth furnace	Uncertain*
	Gas tonnage plant equipment	Uncertain*

Feeders, mechanical

511-81-11	Feeder, vibratory type	Made
511-81-13	Feeder, rotary type	Made
511-81-19	Feeder, mechanical type, nes	Made
511-82-90	Loader, conveyor type, industrial, nes	Made

Filters

521-69-72	Filters, ore separation	
	Filter presses	Not Made
	Others	Made
509-85-89	Filtering machinery, industrial, nes	
	Filter presses	Not Made*
	Others	Made*

Flotation machines, flotation cells, and oil feeders and reagent feeders therefor

521-69-34	Separating machine, sink/float, ore processing	Made
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Furnace slag trucks and slag pots

509-69-89	Foundry machinery/equipment, nes	Made
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Pyrometers

703-71-10	Thermal measuring/controlling instruments, nes	Made
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Retorts

472-82-10	Graphite and other carbon refractories, nes	Uncertain*
472-99-89	Refractories, nes	Uncertain*

Screens, including oscillating, revolving, shaking, stationary, travelling and vibrating screens, and grizzlies

463-52-89	Wire cloth, woven wire screening, metal, nes	
	100 mesh and coarser	Made
	101 mesh and finer	Not Made
509-94-45	Screening machine, industrial, general purpose	Made
521-68-42	Screening machine, stone/gravel, quarry type	Made
521-68-53	Screening machines, ore, mining type	Made
521-69-22	Screening machine, oscillating, ore processing	Made
521-69-24	Screening machine, stationary, ore processing	Made
521-69-29	Screening machine, ore processing, nes	Made

Separators, including jigs and magnetic or electric separators and magnetic pulleys

509-87-39	Centrifuges, industrial, nes	Made
509-87-89	Separators, centrifugal, industrial type, nes	Made
509-94-49	Separating machine, industrial, nes	Uncertain*
521-69-34	Separating machine, sink/float, ore processing	Made
521-69-39	Separating machine, ore, nes	Made

Thickeners

521-69-67	Thickener, ore processing	Made
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Chemical conversion, extraction, reduction or recovery apparatus for use in metallurgical operations

521-69-69	Metallurgical machinery/equipment, ore processing, nes	Uncertain*
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Machinery and apparatus for use in the refining of metals or in roasting or smelting or in the production of anodes, cathodes, blocks, slabs, pigs or ingots in such processes

443-05-20	Ingot moulds	Made
443-05-30	Ingot stools	Made
505-09-20	Furnace, metal melting/smelting/refining, electric	Made
505-09-30	Furnace, metal melting/smelting/refining, non-electric - other than: Rotating open-hearth furnace	Made Uncertain*
505-09-40	Furnace, metal heat treat, electric	Made
505-09-50	Furnace, metal heat treat, non-electric	Made
505-09-61	Furnace, metallic ore roasting, electric	Made
505-09-62	Furnace, metallic ore roasting, non-electric	Made
505-09-79	Furnace, processing of metals, nes	Made
505-09-89	Furnace, metallurgical, nes	Made
505-79-89	Furnace, industrial, electric, nes	Made
505-95-49	Burner, gas type, industrial processing, nes	Made
505-95-89	Burner, industrial processing type, nes	Made
509-40-90	Heat exchanger, industrial, nes	Made
509-69-29	Casting machinery, metal, foundry type, nes	Made
509-69-39	Moulding/mould making machinery, foundry, nes	Made
509-69-61	Moulds, metal die casting type, foundry	Made
509-69-69	Moulds & dies, for metal casting, foundry, nes	Made
509-69-89	Foundry machinery/equipment, nes	Made*
519-99-49	Charge & decharge equipment, furnace, nes	Made
519-99-89	Materials handling equipment, nes	Made*
703-77-11	Electrolytic conductivity measuring instruments	Made

Machinery and apparatus for use in washing, screening, drying or dry cleaning coal

509-83-89	Drying machinery, industrial, nes	Made*
521-68-53	Screening machine, ore, mining type	Made
521-68-55	Washing machines, coal, for mines	Uncertain*
521-68-59	Washing machines, ore, nes, for mines	Made
521-69-81	Drying machine, ore processing	Made
529-97-69	Coal products machinery & equipment, nes	Not Made*

Other possibly relevant classes, not assigned to specific clauses in the item

468-19-30	Valves, gate, steel, except power to 4", except victaulic Others	Made Not Made
468-19-31	Valves, angle, steel, except power to 4", except victaulic Others	Made Not Made

468-19-32	Valves, globe, steel, except power to 4", except victaulic Others	Made Not Made
468-19-33	Valves, check, steel, except power to 4", except victaulic Others	Made Not Made
468-19-34	Valves, butterfly, steel, except power	Made
468-19-35	Valves, needle, steel, except power	Made
468-19-36	Valves, ball, steel, except power Except victaulic valves Others	Made Not Made
468-19-37	Valves, plug, steel, except power to 4" Others	Made Not Made
468-44-15	Valves, blow-off, manual	Made
468-44-19	Valves, relief, nes	Made
468-44-21	Valves, radiator (heating), brass or bronze	Made
468-44-29	Valves, radiator (heating), nes	Made
468-44-39	Steam traps, nes	Made
468-44-49	Valves, pinch, nes	Made
468-44-59	Valves, air control, nes to 4" Others	Made Not Made
468-44-69	Valves, pressure regulating, nes	Made
468-44-79	Valves, titanium, nes	Not Made
468-44-89	Valves, nes	Made
504-40-85	Speed reducer, planetary gear type	Not Made
504-40-89	Speed reducer, power transmission, nes	Made
504-44-24	Gears, power transmission, helical type	Made
504-44-90	Gears, power transmission, nes	Not Made
504-83-20	Cylinders, hydraulic, single acting, power transmission	Made
504-83-30	Cylinders, hydraulic, double acting, power transmission	Made
504-83-50	Cylinders, hydraulic, telescopic type, power transmission	Made
504-83-60	Cylinders, hydraulic, ram type, power transmission	Made
504-83-90	Cylinders, hydraulic, power transmission, nes	Made
504-99-39	Power transmission equipment, pneumatic, nes	Not Made
507-99-49	Pump, vacuum, industrial, nes	Made
508-04-20	Pump, centrifugal, 1 stage - 1 suction, close coupled	Made
508-04-30	Pump, centrifugal, 1 stage - 1 suction, sep coupled	Made
508-04-40	Pump, centrifugal, single stage, double suction	Made
508-04-50	Pump, centrifugal, multi-stage, single suction With head up to 600 p.s.i. Others	Made Not Made
508-04-60	Pump, centrifugal, multi-stage, double suction	Made
508-04-90	Pump, centrifugal type, nes	Made
508-50-27	Pump, air operated type, (pogo)	Made
508-50-51	Pump, sewage type, power	Made
508-50-52	Pump, trash type (contractors), power	Made
508-50-53	Pump, molten metal, power	Made
508-50-54	Pump, chemicals, power	Made
508-50-56	Pump, cryogenic liquid	Made
508-50-62	Pump, jet ejector type, power	Made
508-50-63	Pump, sump type, power	Made
508-50-64	Pump, flow inducer type, power	Made
508-50-66	Pump, submersible, portable, powered	Made
508-50-89	Pump, power, nes	Made
508-95-89	Pump, nes	Made
509-85-89	Filtering machinery, industrial, nes Filter presses Others	Not Made Made
513-27-89	Hoist, industrial, nes	Made
521-51-29	Milling machinery, mining/quarrying type, nes	Uncertain*

521-68-89	Mining machinery and equipment, nes	Uncertain*
521-69-89	Ore processing machinery & equipment, nes	Uncertain*
529-99-89	Special industry machinery/equipment, nes	Uncertain*
705-90-11	Centrifuges, laboratory	Not Made
705-90-90	Laboratory instruments/apparatus, nes	Uncertain*
709-49-90	Physical properties testing/inspecting equipment, nes	Not Made
771-22-20	Computers, digital, central processing unit	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Cooper Energy Services Ltd. has indicated that it manufactures reciprocating gas-engine compressors with a capacity of 13,500 hp (commodity class 507-11-63), and "would make larger units if the market so desired". It is also concerned that, in relation to commodity class 507-11-51, engines down to 150 hp should be shown as being made in Canada, inasmuch as it plans on producing such engines. In the case of class 505-09-30, ("furnace, metal melting/smelting/refining, non electric"), Union Carbide Canada Limited has queried the designation of "made" indicated in Table 4 with respect to rotating open-hearth furnaces and gas tonnage plant equipment; these, therefore, are shown as "uncertain". Dominion Textile Inc., has stated its belief that the types of screening and filters covered by the aforementioned tariff items are "almost entirely metallic rather than textile in nature". On the basis of this understanding, the firm, which is a producer of fabrics used for filtration purposes and as screens, has indicated that it has "no interest" in these tariff provisions.

Commodity classes 472-82-10 and 472-99-89 (believed to encompass "retorts") were not included in Table 4. Also classes 507-99-31, 507-99-32, 507-99-33, 507-99-35, 507-99-36 and 507-99-39 (covering "fans" of different types) and class 521-68-55 ("washing machines, coal, for mines") were not shown in Table 4, but are now added to the listing of goods under review. On the other hand, commodity classes 509-93-89, 523-28-90, 688-79-69, and 703-79-90 have been deleted since they appear irrelevant to the tariff items.

Outstanding Questions

Further information is required concerning the goods cited by Cooper Energy Services Ltd. and Union Carbide Canada Limited (see above) and the various goods covered by the other starred commodity classes.

Attention is particularly drawn to the following commodity classes, which accounted for approximately 6 per cent of total imports under both the referred items in 1978-80, and which have such general descriptions as to

comprehend various classes or kinds of goods. For these classes, regardless of whether or not they are provisionally listed as "made", "not made", or "uncertain", further information is required regarding the "made" or "not made" status of the various classes or kinds of goods that may be included:

509-69-89	Foundry machinery/equipment, nes
509-83-89	Drying machinery, industrial, nes
509-85-89	Filtering machinery, industrial, nes
519-99-89	Materials handling equipment, nes
521-51-29	Milling machinery, mining/quarrying type, nes
521-68-89	Mining machinery & equipment, nes
521-69-89	Ore processing machinery & equipment, nes
529-97-69	Coal products machinery & equipment, nes
529-99-89	Special industry machinery/equipment nes

Tariff Proposals

The Mining Association of Canada (MAC) proposes:

A. Before the end of 1986

(i) making provision in a dutiable eo nomine tariff item for floatation cells, thickeners and vibrating screens (acknowledged by MAC to be made in Canada);

(ii) listing "not made" goods in a duty-free eo nomine provision;

(iii) determining the made-in-Canada status of other (unspecified) goods on import, the "made" goods to be dutiable under a general provision, and the "not made" goods to be allowed free entry;

B. At the beginning of 1987

(iv) establishing a basket provision for relevant goods not then categorized as either "made" or "not made", with a M.F.N. duty of 9.2 p.c., subject to remission in cases of non-availability;

(v) updating the eo nomine listings of goods (vide (i) and (ii) above) by adding those commodities categorized under the general provisions proposed in (iii);

C. General

(vi) making amendments to the eo nomine listings of goods, as appropriate, through the use of a modified version of Section 12 of the Customs Tariff;

(vii) allowing duty-free entry under GATT to "articles for use in the manufacture, repair or construction of goods" classifiable under the aforementioned provisions;

(viii) in a submission made subsequent to the hearing, the Association has re-affirmed the above, but has added a proviso that present tariff provisions should be left unchanged unless there is also recommended some avenue of appeal to a independent body and the courts from decisions of bodies administering availability provisions, a revised version of Section 12 of the Customs Tariff or Section 273 of the Customs Act.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) incorporating all pertinent goods, except "fans, blowers or compressors, of iron or steel" under a single dutiable end-use item, with provision for duty remission based on non-availability;
- (ii) placing the aforementioned excluded goods, together with pumps, vacuum pumps and pumping machinery, loading machines (including drag lines and power shovels), valves, engines and motors, under a separate dutiable tariff item having general applicability, with provision for duty remission based on non-availability;
- (iii) determining eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Union Carbide Canada Limited proposes:

- (i) broadening the end use of the aforementioned tariff provisions to cover the needs of the petrochemical industry;
- (ii) in this connection, establishing a new duty-free tariff item with the following nomenclature:

Process equipment such as reactors, fired heaters, distillation and extraction columns with internals, heat exchangers, re-boilers, vessels and storage tanks, which because of the material of construction, fabrication methods, size or shape are not available from production in Canada.

- (iii) alternatively, making the goods covered by item 41022-1 subject to duty remission based on non-availability;
- (iv) allowing parts of a class or kind made in Canada to be specifically provided for;
- (v) or if (iv) above, would not be acceptable, making specific provision for carbide and graphite brushes of a class or kind made in Canada when for use in motors, compressors and generators, in order that their made-in-Canada status would not be dependent upon the status of the goods of which they are a part.

The Canadian Institute of Steel Construction:

- (i) opposes the proposal of Union Carbide Canada Limited (vide (ii) above) insofar as it relates to vessels and tanks which could be produced in Canada from imported materials;
- (ii) seeks duty-free entry for such materials when there is no domestic source of supply.

Cooper Energy Services Ltd., in the context of these items, proposes:

- (i) if the Board should recommend the continuation of the end-use items now under review, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;
- (ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff;
- (iii) natural gas-fired jet engines over 8,000 bhp, produced by the company's associate, Rolls Royce of Canada Ltd., should not be "admissible at reduced rates of duty down to free";
- (iv) in order to protect the company's production of rotary centrifugal gas compressors with capacities over 140,000 cfm (which can also compress air), there should be no reduction in duty on stationary rotary air compressors of over 140,000 cfm [c.c. 507-11-42], deemed to be of a class or kind not made in Canada;
- (v) there should be no duty exemption for stationary reciprocating gas compressors up to 150 hp [c.c. 507-11-51] or for reciprocating gas-engine compressors over 13,000 hp [c.c. 507-11-63].

Staff Appraisal

1.. Unless information is forthcoming with respect to the made-in-Canada status of "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or any other available pointers.

2. The temporary tariff arrangements proposed by the Mining Association of Canada, as a means of obtaining more definitive listings, even if acceptable on other grounds, may not, in terms of resulting additional information, justify the associated administrative costs and inconvenience.

3. The circumstances relating to the goods falling under the aforementioned tariff items do not seem sufficiently "special" as to warrant the application of "availability" criteria, either on a temporary or permanent basis.

4. The proposal by the Mining Association of Canada for providing all pertinent parts with duty-free entry regardless of the made-in-Canada status of such parts, or that of their associated finished products, appears to go beyond the scope of the terms of this inquiry.

5. The request by Union Carbide Canada Limited for the end-use application of the relevant tariff provisions to be extended to the petrochemical industry - and the response thereto by the Canadian Institute of Steel Construction - is also judged to go beyond the scope of the reference.

6. The further proposal by Union Carbide Canada Limited for allowing parts of a class or kind made in Canada to be treated separately from the main goods, also appears to go beyond the scope of the reference.

7. The proposal by Cooper Energy Services Ltd. for the exclusion of compressors from any end-use tariff arrangement would, in the absence of a new provision for compressors, have the effect of placing these goods under the Machinery Duty Remission Program, thus entailing the application of "availability" criteria (see 4, above).

8. While, for the purpose of providing duty relief on otherwise dutiable articles, recourse to a mechanism such as that provided by Section 12 of the Customs Tariff does not appear to be warranted by the circumstances applying to the goods in question, consideration might be given to the use of existing Section 17 of the Financial Administration Act to effect a temporary reduction in duties for domestic industrial policy reasons.

9. Alternatively, in view of the comparatively small number of "not made" commodity classes designated in relation to tariff items 41022-1 and 41023-1, and in view of the M.F.N. bindings of 9.2 p.c. applying to both of these items, there might seem to be some merit in bringing the relevant goods under a single item utilizing the present (largely eo nomine) nomenclature and with a M.F.N. rate of duty of 9.2 p.c.

10. There is merit in the proposal by the Machinery and Equipment Manufacturers' Association of Canada for the establishment of a new item covering various general-purpose goods, such as valves, motors, engines, compressors, pumps, fans and blowers, which could recur under a number of separate provisions. However, except for pumps, fans, blowers and compressors, entering under items 41013-1, 41014-1, 41022-1 and 41023-1, the recurrence of general-purpose goods in the mining machinery schedule (as opposed to the oilfield equipment schedule) appears to be limited and might not warrant their inclusion in a separate tariff item.

TARIFF ITEMS 41026-1 AND 41027-1

Existing Tariff Provisions

Machinery and apparatus for use in producing coal gas and coke; machinery and apparatus for use in the distillation or recovery of products from coal tar or coal gas

41026-1 Of a class or kind made in Canada; parts thereof

1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			

41027-1 Of a class or kind not made in Canada; parts thereof

Free	Free	Free	Free	Free
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These two items cover all machinery and apparatus, and all parts thereof, imported to be used for the purposes specified in the preamble to the two items. Inasmuch, however, as the classification of parts follows that of the relevant machines or apparatus, the made-in-Canada status of the parts is not a pertinent issue in the present instance. In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41027-1.

In 1978-1980 the average annual value of goods imported under tariff items 41026-1 and 41027-1 amounted to \$3.4 million and \$0.5 million respectively. Parts (as opposed to finished products) appear to have accounted for approximately 70 per cent of all imports judged to be properly classified under both items.

In the absence of classification under these or other end-use items, most of the relevant machinery or apparatus would fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Some apparatus might be classified as instruments under items in the electrical schedule, as vehicles under tariff item 43910-1, or under the provisions for manufactures, n.o.p. of the component material of chief value.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The following D51 Memoranda have been published by Customs and Excise with respect to goods which appear to fall under the two items in question: D51-9 (heat exchangers); and D51-39 (various furnaces).

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 3, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Machinery and apparatus for use in producing coal gas	
529-97-29	Gas producer (manufacturing) machinery/equipment, nes	Made
529-97-31	Purifiers, producer, gas	Made
	Machinery and apparatus for use in producing coke	
505-09-30	Furnace, metal melting/smelting/refining, non-electric	Made
505-09-89	Furnace, metallurgical, nes	Made
505-79-49	Oven, industrial, electric, nes	Made
505-79-59	Oven, industrial, non-electric, nes	Made
505-79-79	Furnace, industrial, non-electric, nes	Made
505-79-89	Furnace, industrial, electric, nes	Made
509-69-89	Foundry machinery/equipment, nes	Made
519-99-49	Charge & decharge equipment, furnace, nes	Made
529-97-62	Coke Producing Machinery	
	Coke ovens	Made*
	Other coke producing machinery	Not Made
	Machinery and apparatus for use in the distillation or recovery of products from coal tar or coal gas	
509-40-15	Heat exchanger, shell or tube type, industrial	Uncertain*
509-40-90	Heat exchanger, industrial, nes	Made
	Other	
468-19-20	Valves, gate, iron, except power	
	Victaulic valves	Not Made
	Others	Made
468-19-39	Valves, steel, nes, except power	
	Victaulic valves	Not Made
	Others	Made
507-99-21	Blowers, axial type, industrial	Made
507-99-22	Blowers, centrifugal type, industrial	Made
507-99-23	Blowers, lobe type, industrial	Made
507-99-24	Blowers, package unit type, industrial	Made
507-99-29	Blowers, industrial, nes	Made
508-50-89	Pump, power, nes	Made
529-97-69	Coal products machinery & equipment, nes	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Commodity class 509-40-15 has been added to the original Table 4 listing following a review of 1979-80 import data. Under commodity class 529-97-62 "coke ovens" has been added to the list of "made" goods on the basis of further information received. The classes listed under the sub-heading of "Other" could possibly apply to each and any of the provisions of the two items. Observations thereon are invited.

Tariff Proposals

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) incorporating all pertinent goods except valves, blowers and pumps under a single dutiable item, with the bound rate of 9.2 p.c., and with provision for duty remission based on non-availability;
- (ii) placing the aforementioned excluded goods, together with fans, compressors, vacuum pumps and pumping machinery, loading machines (including drag lines and power shovels), engines and motors, under a separate dutiable tariff item having general applicability, with provision for duty remission based on non-availability;
- (iii) determining the eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

The Canadian Association of Oilwell Drilling Contractors (CAODC) has also indicated an interest in these items. In a general submission the Association states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

Greening Donald Co., Ltd. proposes:

- (i) making parts subject to their own made-in-Canada determination, rather than relating their status to that of the finished product of which they are a part, as is presently the case;
- (ii) in the event that (i) above is not acceptable, providing for wire screens and wire cloth in a separate dutiable item. (Specific descriptions of these "made" products have not been provided).

Staff Appraisal

1. Unless information is forthcoming with respect to the made-in-Canada status of the "uncertain" class of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or any other available pointers.

2. The circumstances relating to the goods falling under the aforementioned tariff items do not seem sufficiently "special" as to warrant the application of "availability" criteria.

3. The proposal by Greening Donald Co. Ltd. for the separate treatment of parts appears to go beyond the scope of the reference.

4. As more than four-fifths of the pertinent imports are admitted under the "made" item (41026-1), consideration might be given to the establishment of a single dutiable item at 9.2 p.c., or possibly with a weighted average rate of duty.

5. Alternatively, since the "made" classes of goods are comparatively few, and appear to be well defined, a single eo nomine item could be based upon these classes, with the remaining "not made" goods provided for in a residual basket provision.

6. At the time the background material in relation to this group of tariff items was prepared for the public hearing, the staff drafted some possible tariff recommendations, one of which envisaged the establishment of a new item covering various general-purpose goods, such as valves, motors, engines, compressors, pumps, fans and blowers, which could recur under a number of separate tariff items. This idea was supported by the Machinery and Equipment Manufacturers' Association of Canada. However, a re-examination of the situation, indicates that except for pumps, fans, blowers and compressors, entering under items 41013-1, 41014-1, 41022-1 and 41023-1, the recurrence of general-purpose goods in the mining machinery schedule appears to be limited and might not warrant a separate item.

TARIFF ITEMS 41031-1 AND 41032-1

Existing Tariff Provisions

Machinery and apparatus for the recovery of solid or liquid particles from flue or other waste gases at metallurgical or industrial plants:

41031-1 Of a class or kind made in Canada; parts thereof

1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			

41032-1 Of a class or kind not made in Canada; parts thereof

Free	Free	Free	Free	Free
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These items encompass all machinery, apparatus and parts imported for the purposes specified in the preamble to the items. However, as the classification of parts follows the classification of the relevant machines and apparatus, the made-in-Canada status of the parts is not a pertinent issue in the present instance. In the MTN, the M.F.N. rate under both items was bound at 9.2 p.c., but free entry continues to be accorded under item 41032-1.

In 1978-1980 the average annual value of goods imported under tariff items 41031-1 and 41032-1 amounted to \$1.7 million and \$0.8 million respectively. Parts (as opposed to finished products) appear to have accounted for over two-thirds of all imports judged to be properly classified under both items.

In the absence of this or any other applicable end-use provision, the machinery and apparatus covered by these items would largely fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Certain items of apparatus would probably be dutiable elsewhere, either as named instruments under the electrical schedule, or as manufactures, n.o.p. of the component material of chief value.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Customs Memorandum D51-9 covers various categories of machinery and apparatus which appear to be entitled to entry under these items, such as dust collectors, air separators and electric air cleaners.

(b) Commodity Classes

The following listing, based on Background No. 3, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus for the recovery of solid particles from flue or waste gases at metallurgical or industrial plants		
509-79-29	Air purification machinery/equipment, industrial, nes	Made
509-79-31	Precipitator, dust, electrostatic type, industrial	Made
509-79-32	Precipitator, dust, catalytic type, industrial	Made
509-79-39	Dust collection machinery/equipment, industrial, nes	Made
509-85-49	Filter element, industrial, nes	Uncertain*
509-85-89	Filtering machinery, industrial, nes	Made
Machinery and apparatus for the recovery of liquid particles from flue or waste gases at metallurgical or industrial plants		
508-04-90	Pump, centrifugal type, nes	Made
508-50-66	Pump, submersible, portable, powered	Uncertain*
508-50-89	Pump, power, nes	Made
509-79-29	Air purification machinery/equipment, industrial, nes	Made
509-85-89	Filtering machinery, industrial, nes	Made
509-87-89	Separators, centrifugal, industrial type, nes	Made

* Indicates a class for which additional information is required.

Commodity classes 508-50-66 and 509-85-49 have been added on the basis of 1978-80 import data. Observations are invited respecting the relevance and made-in-Canada status of these classes.

Tariff Proposals

The Mining Association of Canada (MAC) proposes:

- (i) duty-free entry of products eligible for classification under the two items;
- (ii) extending the coverage to embrace pollution control equipment;
- (iii) duty-free entry of pertinent parts;
- (iv) replacing the present nomenclature by:

Machinery and apparatus for use in the detection, measurement, prevention, treatment, reduction or removal of pollutants to water, soil or air at metallurgical or industrial plants, parts of the foregoing.

The Machinery and Equipment Manufacturers' Association of Canada (MEMAC) proposes:

- (i) incorporating all pertinent goods under a single dutiable end-use item, with provision for duty remission based on non-availability;
- (ii) determining eligibility for duty remission in respect of parts by reference to the availability or otherwise of the associated finished products.

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Union Carbide Canada Limited proposes:

- (i) broadening the end use of the aforementioned tariff provisions to cover the needs of the petrochemical industry;
- (ii) in this connection, establishing a new duty-free tariff item with the following nomenclature:

Process equipment such as reactors, fired heaters, distillation and extraction columns with internals, heat exchangers, re-boilers, vessels and storage tanks, which because of the material of construction, fabrication methods, size or shape are not available from production in Canada.

- (iii) alternatively, making the goods covered by item 41031-1 subject to duty remission based on non-availability;
- (iv) making specific (named) provision for parts of a class or kind made in Canada;
- (v) or if (iv) above, would not be acceptable, making specific provision for carbide and graphite brushes of a class or kind made in Canada when for use in motors, compressors and generators, in order that their made-in-Canada status would not be dependent upon the status of the goods of which they are a part.

The Canadian Institute of Steel Construction:

- (i) opposes the proposal of Union Carbide Canada Limited (vide (ii) above) insofar as it relates to vessels and tanks which could be produced in Canada from imported materials;
- (ii) seeks duty-free entry for such materials when there is no domestic source of supply.

Greening Donald Co., Ltd. proposes:

- (i) making parts subject to their own made-in-Canada determination, rather than relating their status to that of the finished product of which they are a part, as is presently the case;
- (ii) in the event that (i) above is not acceptable, providing for welded wire screens, perforated metals, and wire cloth in a separate dutiable item. (Specific descriptions of these "made" products have not been provided).

Staff Appraisal

1. Unless information is forthcoming with respect to the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or any other available pointers.

2. The proposal of the Mining Association of Canada goes beyond the scope of the reference, insofar as both finished products and parts are concerned.

3. The circumstances relating to the goods falling under the aforementioned tariff items do not seem sufficiently "special" as to warrant the application of "availability" criteria.

4. The request by Union Carbide Canada Limited for the end-use application of the relevant tariff provisions to be extended to the petrochemical industry - and the response thereto by the Canadian Institute of Steel Construction - is also judged to go beyond the scope of the reference.

5. The further proposals by Union Carbide Canada Limited and Greening Donald Co. Ltd., for allowing parts of a class or kind made in Canada to be separately treated from the main goods also appears to go beyond the scope of the reference.

6. At the time the background material in relation to this group of tariff items was prepared for the public hearing, the staff drafted some possible tariff recommendations, one of which envisaged the establishment of a new item covering various general-purpose goods, such as valves, motors, engines, compressors, pumps, fans and blowers, which could recur under a number of separate tariff items. This idea was supported by the Machinery and Equipment Manufacturers' Association of Canada. However, a re-examination of the situation, indicates that except for pumps, fans, blowers and compressors, entering under items 41013-1, 41014-1, 41022-1 and 41023-1, the recurrence of general-purpose goods in the mining machinery schedule appears to be limited and might not warrant a separate item.

7. Inasmuch as the bulk of the goods entitled to entry under these provisions appear to be made in Canada and two-thirds of imports now come under the "made" item, the existing nomenclature might be retained under a single dutiable item without reference to "class or kind". However, some of the statistical classes reported as "made" appear to be broad enough to encompass several "classes or kinds" of goods. If, in the opinion of any interested party, one or more of these classes include "not made" goods, the latter should be specified.

TARIFF ITEM 44530-1

Existing Tariff Provisions

Flameproof electric transformers, rectifiers, cable-connecting devices, trailing cable extensions with couplers moulded on, junction boxes, and complete parts of the foregoing, when of a class or kind not made in Canada and for use in mines in which inflammable gases exist

1/1/81	Free	7.5 p.c.	37.5 p.c.	Free	Free
1/1/82		7.5 p.c.			
1/1/87		Free			

The M.F.N. rate of this item was bound at Free in the MTN.

The item provides for certain "not made" electrical products when imported for the use specified. It will be noted that parts must be "complete" and also "of a class or kind not made in Canada". A complete part is one which, in the condition as imported, is ready for use in the product of which it is a part; it must not require any further processing (e.g. grinding or polishing), nor can it be a "part of a part".

Imports under the item averaged \$0.7 million per annum for the years 1978-80.

In the absence of classification under item 44530-1 or some other end-use item, most of the products named, and complete parts thereof, would be classified elsewhere in the electrical schedule, principally as transformers and complete parts thereof (item 44514-1), or as electrical apparatus n.o.p., and complete parts thereof (item 44524-1). These latter items are bound at 9.2 p.c. and 10.2 p.c. respectively.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is not aware of any published rulings relating to these goods.

(b) Commodity Classes

The following listing, based upon the information in Background No. 3, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

Commodity Class		Provisional Made-in-Canada Status
Flameproof electric transformers		
683-77-30	Autotransformers, 500 kva & over	Uncertain*
683-77-31	Reactors, power 500 kva & over	Uncertain*
683-77-32	Regulators, voltage, power 500 kva & over	Uncertain*
683-77-49	Transformers, power, 500 - 2,500 kva, nes	Not Made
683-77-59	Transformers, power, 2,501 - 7,500 kva, nes	Uncertain*
683-77-69	Transformers, power, 7,501 - 50,000 kva, nes	Uncertain*
683-77-89	Transformers, power, over 50,000 kva, nes	Uncertain*
683-79-20	Transformers, distribution, 225 kva & under	Not Made
683-79-21	Transformers, distribution, 226 - 499 kva	Not Made
683-79-30	Autotransformers, under 500 kva, except ballast	Not Made
683-79-31	Reactors, power, under 500 kva	Not Made
683-79-32	Regulators, voltage, power, <500 kva	Not Made
683-79-90	Transformers, power, under 500 kva, nes	Uncertain*
Flameproof rectifiers		
688-79-50	Rectifier sets, industrial	Not Made
688-79-59	Rectifying equipment, nes	Not Made
Flameproof cable-connecting devices		
688-69-45	Connectors, electric wiring devices	Uncertain*
Flameproof trailing cable extensions with couplers moulded on		
469-75-19	Cable, underground electric, armoured nes	Uncertain*
469-75-29	Cable, power, insulated, nes	Uncertain*
469-75-39	Insulated cable, nes, electrical	Uncertain*
Flameproof junction boxes		
495-65-20	Boxes & covers, metal, electric outlet	Uncertain*
495-65-25	Boxes & covers, plastic, electric outlet	Uncertain*
495-65-30	Boxes & covers, metal, electric receptacle	Uncertain*
495-65-35	Boxes & covers, plastic, electric receptacle	Uncertain*
495-65-40	Boxes & covers, metal, electric switch	Uncertain*
495-65-45	Boxes & covers, plastic, electric switch	Uncertain*
495-65-60	Outlet box connectors	Uncertain*
495-65-90	Boxes, nes, electric, outlet and switch	Uncertain*
Parts of the foregoing		
683-95-88	Transformers & transformer equipment, parts of, nes	Not Made
688-69-20	Sockets, lampholders, electric	Uncertain*
688-69-29	Sockets, electric, nes	Uncertain*
688-69-50	Plugs, electrical (wiring devices)	Uncertain*

* Indicates a change from Table 4 and a class regarding which further information is required.

It should be noted that the "not made" designation ascribed above to distribution transformers, transformer parts, autotransformers, power reactors, voltage regulators, rectifier sets and rectifying equipment indicates the reported made-in-Canada status of such goods when in flameproof enclosures. Additional information is required with respect to all "uncertain" commodity classes. All but the last such three classes listed above, have

been added by the Board's staff to the classes shown in Table 4 in order to obtain a correspondence with the nomenclature of the item. The "uncertain" classes specified under "Parts of the foregoing" were listed as "made" in Table 4, but confirmation is required that the goods reported as being made in Canada are suitable for use in flameproof equipment. With respect to the classes added by the Board's staff, information is requested in regard to their relevance to this tariff item and in relation to the made-in-Canada status of the relevant goods. Other qualifying goods that do not appear to fall under any of the classes listed above, should also be reported.

Tariff Proposals

No representations were received with respect to this item.

Staff Appraisal

1. Considerable further information seems to be required. If this is not forthcoming, the Board will have to proceed on the basis of the best data available.

2. Information to date would suggest that no flameproof electrical equipment is produced in Canada. If such is the case, an item might be developed on this basis.

3. In view of the absence of any proposal from possible users of the item, its elimination might be envisaged.

4. Alternatively, in the absence of any representations from Canadian manufacturers, retention of the item might be considered, with the deletion of the words "when of a class or kind not made in Canada and".

TARIFF ITEM 44725-1

Existing Tariff Provisions

The coverage of this item is clearly indicated by its nomenclature, which names certain specific goods, with the proviso that they must be of a class or kind not made in Canada, but without end-use restriction. The full nomenclature and rates of duty are:

Well points, well screens, well strainers, pitless well heads; all the foregoing of a class or kind not made in Canada, parts thereof

1/1/81	Free	7 p.c.	12.5 p.c.	Free	5.5 p.c.
1/1/82		6.8 p.c.			
1/1/87		5.5 p.c.			

In the MTN, the M.F.N. rate is bound at 5.5 p.c. It will be noted that the item covers parts of qualifying goods, regardless of their own made-in-Canada status.

Imports under tariff item 44725-1 averaged \$859,000 per annum in 1978-80.

When of a class or kind made in Canada, and not qualifying for entry under any other end-use item, the goods described in the item would be dutiable according to the component material of chief value, particularly under such tariff items as 44603-1 (unspecified manufactures of iron or steel) and 35200-1 (unspecified manufactures of brass or copper). Both these items have M.F.N. rates bound at 10.2 p.c. in the MTN.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings as to the made-in-Canada status of any of the goods listed in item 44725-1.

(b) Commodity Classes

Goods imported under this item are coded, as indicated in Background No. 3, Table 4, to a broad commodity class - viz:

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Well points, well screens, well strainers, pitless well heads	

463-99-79	Wire screen products, metal, nes	Uncertain*
469-99-89	Metal fabricated basic products, nes	
	Well screens, stainless steel, 3", 4", 5", 6", 8" and 10", telescope size and 2", 3", 4", 5", 6", 8" and 10", pipe size	Made
	Well screens, other	Not Made
	Well points	Not Made
	Well strainers	Not Made
	Pitless well heads	Not Made

* Indicates a change from Table 4 and a class regarding which further information is required.

Commodity class 463-99-79 has been included above on the basis of 1979-80 import data; observations are invited regarding the relevance and made-in-Canada status of the goods encompassed by this class.

Tariff Proposals

The Canadian Water Well Association, the principal petitioner with respect to these products, has indicated a preference for retaining in the Customs Tariff a specific enumeration of the goods listed in item 44725-1, for ease of classification.

The Canadian Association of Oilwell Drilling Contractors (CAODC) has also indicated an interest in this item. In a general submission the Association states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

Staff Appraisal

1. The proposal of the Canadian Water Well Association has merit, and it would appear that a nomenclature could be developed which would accommodate the concern of the Canadian Association of Oilwell Drilling Contractors respecting the specification of "types, sizes and other ratings of goods".

2. In the event of a specific enumeration of the goods encompassed by tariff item 44725-1, it would seem easier to list "made" goods than simply have a "not made" item.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL

MACHINERY AND APPARATUS FOR USE IN THE
DEVELOPMENT OF RESOURCES OF OIL,
NATURAL GAS, POTASH OR ROCK SALT

DECEMBER, 1981

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(a) The review of tariff items 41001-1 and 41002-1 will be found
supra, pp. 26-35 of this consolidated report.

TARIFF ITEMS 49104-1 AND 49105-1

Existing Tariff Provisions

These two items are the residual items of a group relating to the discovery and development of oil or gas wells and potash or rock salt deposits. The general heading of this group is as follows:

Machinery and apparatus for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the wellhead assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include automotive vehicles or chassis on which the machinery and apparatus are mounted:

Items 49104-1 and 49105-1 share a sub-heading:

All other machinery and apparatus, and parts thereof; parts of goods enumerated in item 49103-1:

49104-1	Of a class or kind made in Canada				
1/1/81	5 p.c.	10 p.c.	20 p.c.	5 p.c.	9.2 p.c.
1/1/87		9.2 p.c.			
49105-1	Of a class or kind not made in Canada				
	Free	Free	Free	Free	Free

The two aforementioned items are intended to provide for all machinery and apparatus used in the relevant industries that is not more specifically covered elsewhere. The major exclusions are set out in items 49101-1, 49102-1 and 49103-1, the other three items under the common heading - viz:

49101-1 Belting and hose, wholly or partly of rubber, and fittings and accessories therefor whether attached or not;
Casing centralizers, wall scratchers and scrapers, stop rings and cement baskets;
Moulded or extruded rubber products, namely cementing plugs, protectors, wipers, swab rubbers, and rubber rollers for wireline guides and turnback units;
Screens for shale shakers;
Sucker rods, pony rods, polished rods, and couplings therefor;
Swaged nipples and bull plugs not exceeding 4 inches in outside diameter;
Wellhead valves, not under 2 inch or over 3 inch nominal size, rated for service in working pressures up to and including 2,000 pounds per square inch W.O.G. (water, oil, gas), excluding check valves, pressure regulators, automatic safety valves and needle valves;
Parts of all the foregoing.

- 49102-1 Blow-out preventers;
Crown blocks and travelling blocks;
Elevators and elevator links;
Fishing tools;
Flanged casing heads;
Masts or derricks for drilling, servicing or work-over rigs;
Rotary tables;
Screwed casing heads for surface casings exceeding 10 3/4 inches in outside diameter, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil, gas);
Swivels;
Well logging equipment;
Well perforating equipment;
Wellhead valves over 3 inch nominal size, or rated for service in working pressures exceeding 2,000 pounds per square inch W.O.G. (water, oil, gas);
Well-packers;
Parts of all the foregoing.
- 49103-1 Drilling, servicing or work-over rigs, assembled or not;
Draw works;
Slush pumps;
Motive power and drive groups for operating slush pumps, draw works or rotary table.

Also excluded are goods encompassed by tariff items 41001-1 and 41002-1, which provide for the following named articles:

Bits and augers of all kinds;
Drills of all kinds, not including those drilling rigs entitled to entry under tariff item 49103-1;
Fishing tools, n.o.p.;
Reamers, stabilizers, and combinations thereof, n.o.p.;
All the foregoing for use in the exploration or drilling for water, oil, natural gas or minerals, or in mining or quarrying.

With the exception of goods falling under 41001-1 and 41002-1, the five items 49101-1 to 49105-1 are considered to be all-embracing and to include all machinery and apparatus, and parts thereof, used for the purposes stated in the preamble to the five items.

It will be noted that items 49101-1 and 49102-1 contain provisions for "parts". However, parts of the goods covered by item 49103-1 fall under the referred items 49104-1 and 49105-1. IT SHOULD BE NOTED THAT IN THESE TWO ITEMS, unlike many others in the Reference, THE CLASSIFICATION OF THE PARTS DEPENDS ON THEIR OWN MADE-IN-CANADA STATUS and not on that of the machinery or apparatus of which they form parts.

Although the range of goods covered by these two items is very broad, most of the very large and/or more expensive "oil-country goods" are either specially provided for by name (items 41001-1, 41002-1, 49101-1,

49102-1, 49103-1) or - when for certain specialized uses such as oil sand operations or in connection with the distillation or recovery of products from natural gas - other items take precedence. Thus, it may be said - and this is borne out by the commodity classes listed below - that the great majority of goods entering under the items are "general purpose" in both the broadest sense and with reference to the oil and gas industries.

In the absence of items 49104-1 and 49105-1, the vast bulk of the goods in question would undoubtedly fall under item 42700-1 and be subject to the Machinery Duty Remission Program. Smaller quantities would probably be classified under electrical items or as manufactures of various materials.

In 1978-80 the annual average value of goods imported under tariff items 49104-1 and 49105-1 amounted to \$60.2 million and \$218.1 million respectively. Parts (including parts for goods enumerated in item 49103-1) appear to have accounted for approximately three-fifths of all pertinent imports judged to be properly classified. Together, in 1978-80, these two items accounted for approximately 86 per cent of total imports of goods in the 49000 series of items under review; the \$218.1 million worth of imports under item 49105-1, alone, represented 67 per cent of the total.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings in the D51 series relating specifically to classes or kinds of machinery or apparatus imported for the prescribed end uses of these items. However, in view of the all-embracing nature of the items it is not surprising that there are any number of rulings relating to goods which might be so used. The pertinent Customs Memoranda include the following: D51-4 (wire ropes); D51-8 (compressors); D51-9 (heat exchangers and burners); D51-12 (pumps); D51-13 (conveyors); D51-15 (diesel engines); D51-17 (generators); D51-19 (ball bearings); D51-21 (cranes and hoists); D51-22 (valves); D51-36 (hose).

The brief of Syncrude Canada Ltd. to the Tariff Board (see below) also cites various unpublished rulings whereby certain products encompassed by commodity classes 504-40-88 ("speed reducer, power transmission, parts of") and 504-81-20 ("couplings, hydraulic, power transmission") are held to be of classes or kinds made in Canada, while certain products falling under commodity classes 521-79-71 ("extracting machinery, thermal type, oil sands"), 521-79-78 ("oil producing machinery/equipment, oil sands, nes, parts of"), 521-79-79 ("oil producing machinery/equipment, oil sands, nes"), 521-79-89 ("oil/petroleum field production machinery/equipment, nes") and 703-78-10 ("process & multi-function control machines/apparatus, nes") are considered to be of classes or kinds not so made.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 2, Table 4, sets out the provisional made-in-Canada status of goods.

Commodity Class		Provisional Made-in-Canada Status
443-99-29	Steel forgings, cs, nes, closed die, rough & unfinished	Made
443-99-39	Steel forgings, as, nes, closed die, rough & unfinished	Made
449-79-20	Wire rope, new, 1" diameter and less, 8 strand and under	Made
449-79-30	Wire rope, new, over 1" to 2" diameter, 8 strand and under	Made
449-79-40	Wire rope, new, 2" diameter, 8 strand & under	Uncertain*
449-79-45	Wire rope, new, 2" diameter, over 8 strand	Uncertain*
465-08-89	Nuts, locknuts & stop nuts, metal, nes	Made
465-19-29	Screws, nes, steel	Made
465-99-70	Wire rope hardware/fittings	Made
466-09-20	Chain, roller, power transmission & conveyor	Uncertain*
466-09-26	Chain, roller, offset sidebar	Uncertain*
466-09-28	Chain, roller, parts of	Made
466-09-45	Chain, silent drive (inverted tooth)	Made
466-09-90	Chain, power transmission and conveyor, nes	Made
468-09-20	Valves, automatic operator, hydraulic controlled	Not Made
468-09-89	Valves, automatic operator, controlled, nes	Made
468-19-20	Valves, gate, iron, except power To 6" screwed/60" flanged Other	Made Not Made
468-19-23	Valves, check, iron, except power To 20" flanged Other	Made Not Made
468-19-24	Valves, butterfly, iron, except power	Made
468-19-26	Valves, ball, iron, except power To 2" screwed Other	Made* Not Made*
468-19-27	Valves, plug, iron, except power To 12" screwed Other	Made* Not Made*
468-19-29	Valves, iron, nes, except power	Made
468-19-30	Valves, gate, steel, except power To 2" screwed/48" flanged Other	Made Not Made
468-19-31	Valves, angle, steel, except power To 2" screwed/10" flanged Other	Made Not Made
468-19-33	Valves, check, steel, except power To 4" screwed/48" flanged Other	Made Not Made
468-19-34	Valves, butterfly, steel, except power	Made
468-19-36	Valves, ball, steel, except power To 3" screwed/12" flanged Other	Made Not Made
468-19-37	Valves, plug, steel, except power To 4" screwed/12" flanged: Up to 900 ASA rating 900 ASA rating & over Other	Made* Not Made* Not Made*

468-19-39	Valves, steel, nes, except power	Made
468-44-69	Valves, pressure regulating, nes	
	Bronze to 2"	Made*
	Other	Not Made*
468-44-89	Valves, nes	Made
468-48-29	Valves, iron, nes, parts of	Made
468-48-39	Valves, steel, nes, parts of	Made
468-48-89	Valves, nes, parts of, including valve bodies nes	Made
469-72-49	Tanks, storage, nes	
	Steel bolted tanks	Not Made
	Other	Made
469-75-15	Cable, electrical, marine or navy	Made
469-75-39	Insulated cable, nes, electrical	Made
469-99-40	Tubing, flexible metal, except electric	Not Made
496-52-90	Gaskets, nes, except rubber & asbestos	Made
501-19-21	Boiler, power, water tube type, package unit	
	To 150,000 lb/hr	Made*
	Others	Not Made
501-19-89	Boiler, power, nes	
	Field erected power boilers to 500mw	Made*
	Others	Not Made
501-49-21	Heaters, air, power boiler	Made
501-49-29	Heaters, power boiler, nes	Uncertain*
501-49-79	Boiler, power, parts of nes	Uncertain*
502-18-29	Engines, semi-diesel, nes	Not Made*
502-18-39	Engines, diesel, nes, 100 brake horsepower & under	Not Made*
502-18-49	Engines, diesel, nes, over 100, to 200 bhp	Not Made
502-18-59	Engines, diesel, nes, over 200, to 500 bhp	Not Made
502-18-69	Engines, diesel, nes, over 500, to 1,000 bhp	
	With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-79	Engines, diesel, nes, over 1,000 to 1,500 bhp	
	With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-89	Engines, diesel, nes, over 1,500 bhp	
	With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	With a piston displacement of more than 500 cubic inches per cylinder, and less than 5,000 bhp	Made*
	With a piston displacement of more than 500 cubic inches per cylinder, and more than 5,000 bhp	Not Made*
502-19-10	Engines, diesel & semi-diesel, nes, parts of	Made
502-25-89	Engines, gas, nes, over 50 bhp	
	50-75 bhp	Not Made
	Over 75 bhp	Made*
502-29-10	Engines, gas, nes, parts of, nes	Uncertain*
502-40-29	Turbine, gas, nes, 1,000 hp and less	Uncertain*
502-40-39	Turbine, gas, nes over 1,000 hp to 20,000 bhp	
	1,001 - 7,499 hp	Uncertain*
	7,500 - 20,000 hp	Made*
502-40-88	Turbine, gas, general purpose type, parts of:	
	Spindle discs, shafts, blade diaphragms, rotors	
	- with ratings of 50,000 hp or less	Made*
	- with ratings of over 50,000 hp	Not Made*
	Blades	Not Made*

502-40-89	Turbine, gas, nes, over 20,000 hp 20,000 - 35,000 hp Others	Made* Uncertain*
502-99-18	Engines, diesel & semi-diesel, general purpose, accessories	Uncertain*
502-99-28	Engines, gas, general purpose, accessories	Uncertain*
502-99-32	Engines, natural gas fired, general purpose 3,000-8,000 hp Others	Made* Not Made*
502-99-49	Motors, hydraulic, general purpose, nes	Not Made
502-99-74	Engines, compressed gas, without combustion, general purpose	Not Made
502-99-88	Engines, general purpose, nes, parts of, nes	Uncertain*
502-99-89	Engines, general purpose, nes 1,000-8,000 hp Other	Made* Not Made*
503-09-20	Generators, alternating current, under 150 kw	Made
503-09-30	Generators, alternating current, 150 kw & over	Made
503-13-30	Generator sets, steam turbine	Uncertain*
503-15-20	Generator sets, diesel engine, direct current	Made*
503-15-31	Generator sets, diesel engine, alternating current, 50-250 kw	Made
503-15-32	Generator sets, diesel engine, alternating current, 251-1,000 kw	Made
503-15-90	Generator sets, nes	Made
503-19-89	Generators, electrical, alternating current, parts of, nes	Made
503-67-60	Motors, electric, alternating current, over 200 horsepower	Made
503-69-43	Motors, electric, direct current, 20-200 hp	Made
503-69-44	Motors, electric, direct current, over 200 hp	Made
503-69-55	Generators, direct current, 150 kw & over	Made
503-69-89	Motors, electric, nes Tripled-rated Cema-D "Hi Slip", "Hi Torque" and 4,500 hp & over, thyristor controlled Other	Not Made Made Uncertain
504-05-89	Bearing, ball, unmounted, nes	Uncertain
504-40-30	Gear unit, double reduction, except spiral bevel	Made
504-40-41	Gear unit, helical, parallel concentric shaft	Uncertain*
504-40-43	Gear unit, helical, offset parallel shaft	Made
504-40-46	Gear unit, multiple reduction, spiral bevel Double reduction gears Triple reduction gears Others	Made* Not Made* Uncertain*
504-40-51	Speed increaser, gear type	Uncertain*
504-40-85	Speed reducer, planetary gear type	Not Made*
504-40-88	Speed reducer, power transmission, parts of	Made
504-40-89	Speed reducer, power transmission, nes	Made
504-44-24	Gears, power transmission, helical type	Made
504-85-88	Pump, hydraulic, power transmission, parts of	Not Made
504-85-90	Pump, hydraulic, power transmission, nes	Not Made
504-99-88	Power transmission equipment, nes, parts of	Not Made
504-99-89	Power transmission equipment, nes	Not Made
507-11-41	Compressor, air, stationary, rotary, vane/screw Vane 30-40 hp and screw 40-50 hp Others	Made Not Made*
507-11-49	Compressor, air, stationary, rotary type, nes	Made*
507-11-52	Compressor, gas, stationary, reciprocating, 251-1,000 hp 301-1,000 hp Others	Made Not Made*
507-11-53	Compressor, gas, stationary, reciprocating, over 1,000 hp	Made

507-11-63	Engine-compressor, gas, reciprocating 90-13,500 hp Others	Made* Not Made*
507-29-23	Compressor, air, portable, 100 cfm - 175 cfm	Made
507-29-26	Compressor, air, portable, 500 cfm - 799 cfm	Made
507-29-27	Compressor, air, portable, 800 cfm - 1,099 cfm	Made
507-29-31	Compressor, air, portable, 1,400 cfm & over	Not Made
507-29-49	Compressor, air, package unit, nes	Made*
507-29-89	Compressor, gas, nes	Made*
507-36-22	Compressor, air, stationary, parts of	Made
507-36-27	Compressor, air, portable, parts of	Made
507-36-30	Compressor, gas, stationary, accessories for	Made
507-36-32	Compressor, gas, stationary, parts of	Uncertain*
507-36-89	Compressor, gas, nes, parts of	Uncertain*
508-04-20	Pump, centrifugal, 1 stage - 1 suction, close coupled	Made
508-04-30	Pump, centrifugal, 1 stage - 1 suction, sep coupled	Made
508-04-90	Pump, centrifugal, type, nes	Made
508-50-24	Pump, reciprocating, plunger type, power To 80 gpm, 3,300 psig Others	Made Not Made
508-50-42	Pump, rotary, gear type, power	Made
508-50-54	Pump, chemicals, power Chemical injection pump Others	Not Made Made
508-50-63	Pump, sump type, power	Uncertain*
508-50-66	Pump, submersible, portable, powered	Made
508-50-89	Pump, power, nes	Made
508-79-20	Pump, centrifugal type, parts of	Made
508-79-30	Pump, reciprocating type, powered, parts of	Made
508-79-50	Pump, rotary type, powered, parts of	Made
508-79-90	Pump, power, nes, parts of	Made
508-95-25	Pump, jack To 228 in/lb peak torque rating Others	Made* Not Made*
508-95-28	Pump, jack, parts of: Gear box rating Other	Made* Not Made*
508-95-88	Pump, industrial type, nes, parts of	Made
508-95-89	Pump, nes	Made
509-40-15	Heat exchanger, shell & tube type, industrial	Made*
509-40-45	Heat exchanger, air pre-heat type, industrial	Made
509-40-50	Heat exchanger for cryogenic service, ind Braized aluminium Others	Not Made* Uncertain*
509-40-88	Heat exchanger, industrial, parts of	Made
509-40-90	Heat exchanger, industrial, nes	Made
509-85-89	Filtering machinery, industrial, nes Filter presses Other	Not Made* Made*
509-99-78	Vibrators, industrial, general purpose, nes, parts of	Made
509-99-79	Vibrators, industrial, general purpose, nes	Made
513-15-46	Crane, for use on ships, boats or barges	Uncertain*
513-27-89	Hoist, industrial, nes	Made*
521-01-88	Core drilling machine, earth/rock, nes, parts of	Made
521-17-21	Drilling machinery, oil well, rotary type	Made
521-17-28	Drilling machinery, oil well, rotary type, parts of	Made
521-17-31	Well drilling machinery, natural gas	Made
521-17-38	Well drilling machinery, natural gas, parts of	Made

521-17-59	Mud system machinery, oil well, nes	Made
521-17-81	Drilling rig, oil well, percussion type	Made
521-17-82	Drilling rig, oil well, sea-going type	Made
521-17-85	Pump, mud, oil well	Not Made
521-17-87	Tool joint, oil well drill, except combination drill pipe	Made
521-17-88	Well drilling machinery, oil, nes, parts of	Made
521-17-89	Well drilling machinery, oil, nes	Made
521-79-21	Pump, bottom hole type, oil well	Made
521-79-22	Pump, walking beam type, oil well	Uncertain*
521-79-23	Pump, liquid petroleum gas, oil field	Not Made
521-79-26	Pressuring equipment, oil well	Uncertain*
521-79-28	Pumping machinery/equipment, sub-surface oil well, nes, parts of	Made
521-79-29	Pumping machinery/equipment, sub-surface oil well, nes	Made
521-79-42	Separator/trap, oil & gas, oil field prod	Uncertain*
521-79-52	Separators, gas, natural field production	Made
521-79-58	Natural gas field production machinery/ equipment, nes, parts of	Made
521-79-59	Natural gas field production machinery/ equipment, nes	Made
521-79-78	Oil producing machinery/equipment, oil sands, nes, parts of	Made
521-79-79	Oil producing machinery/equipment, oil sands, nes	Made
521-79-88	Oil/petroleum field production machinery/ equipment, nes, parts of	Made
521-79-89	Oil/petroleum field production machinery/ equipment, nes	Made
634-35-20	Sonar & echo sounding equipment	Made
634-35-88	Sonar & echo sounding equipment, parts of, nes	Made
634-39-50	Radar, navigation, marine Satellite position fixing system type CMA 751 (marine version) Others	Made Not Made
634-39-90	Radar equipment, nes Synthetic aperture radar, airborne Satellite position fixing system type CMA 751 (land version)	Made Not Made
639-55-39	Printed circuit boards nes, with components	Made
639-99-88	Electronic equipment components, parts of, nes	Uncertain*
639-99-90	Electronic equipment components, nes (coils, LED, LDC & thick film microcircuits)	Made
684-99-30	Panelboards, electric, power	Made
684-99-90	Switchgear & protective equipment, nes	Made
688-79-50	Rectifier sets, industrial	Uncertain*
703-44-88	Fluid flow-liquid level measuring instru- ments, parts of, nes	Made*
703-44-90	Fluid flow measuring/controlling instru- ments, nes	Made*
703-75-11	Pressure measuring/controlling instruments	Uncertain*
703-77-11	Electrolytic conductivity measuring instruments	Made
703-78-10	Process & multi-function control machines/apparatus, nes	Made
703-79-90	Measuring & measuring/controlling instruments, nes	Made
703-95-90	Measuring & measuring/controlling instruments, parts of, nes	Made
705-31-80	Gas chromatography equipment	Made*
705-31-88	Gas chromatography equipment, parts of	Made*
709-49-90	Physical properties testing/inspection equipment, nes	Uncertain*

709-93-88	Surveying instruments, parts of, nes	Uncertain*
709-93-90	Surveying instruments, nes	Uncertain*
709-94-11	Magnetometers, geophysical	Uncertain*
709-94-21	Seismic instruments	Uncertain*
709-94-28	Seismic instruments, parts of	Uncertain*
709-94-31	Meters, gravity, prospecting	Uncertain*
709-94-88	Geophysical instruments, parts of	Uncertain*
709-94-90	Geophysical instruments, nes	Uncertain*
709-99-31	Research equipment, oceanographic	Uncertain*
709-99-38	Research equipment, oceanographic, parts of	Uncertain*
771-22-20	Computers, digital, central processing unit	Not Made*
771-22-21	Microcomputers, digital	Not Made
771-22-28	Computers, central processing unit, parts of, nes	Not Made*
771-22-41	Controllers, disk drive	Not Made
771-22-51	Disk drives, magnetic, computer	Not Made*
771-22-52	Tape transport, magnetic, computer	Not Made
771-22-57	Memory modules, computer type	Not Made
771-22-58	Computer data storage equipment, parts of	Not Made
771-22-73	Terminals, computer, graphic display	Not Made*
771-22-88	Computer equipment, nes, parts of	Not Made
771-22-89	Computer equipment, nes	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Compared with the original listing in Table 4, the list of commodity classes has been considerably expanded in the light of the composition of imports in 1979-80 and/or indications of interest on the part of manufacturers and users. In the case of a number of these added classes it has proved possible to assign a provisional made-in-Canada determination on the basis of information obtained in connection with goods falling under other referred items pertaining to mining equipment and various kinds of engines. Thus, a "made" designation has been attached to additional commodity class 513-27-89 (hoists), while c.c. 504-40-85 (speed reducers) has been given a "not made" listing. Turbine parts falling under c.c. 502-40-88 have been provisionally categorized as both "made" and "not made", depending primarily upon the hp rating of the goods. The provisional made-in-Canada determinations entered against additional commodity classes 504-40-46 (gear units), 509-40-15 and 509-40-50 (heat exchangers) are based upon observations made by the Canadian Association of Oilwell Drilling Contractors (CAODC).

In the sphere of gas turbines, a "made" designation has been assigned to certain goods falling under commodity classes 502-40-39 and 502-40-89 in relation to which the Canadian Petroleum Association and Solar Turbines Canada apparently agree on the fact of domestic production; the remaining goods in these classes and those in c.c. 502-40-29 (also pertaining to gas turbines) have been given an "uncertain" designation in view of the claim by the CPA that they are not made in Canada and the contention by Solar Turbines Canada that gas turbines of all practical sizes are available from domestic sources. These differences of viewpoint need to be resolved.

There remain a substantial number of added classes of goods falling under the aforementioned tariff items on which views regarding the made-in-Canada status have not yet been sought. These "uncertain" classes comprise c.c. 449-79-40 and 449-79-45 (wire ropes), 501-49-29 (heaters), 501-49-79 (boilers), 503-13-30 (generator sets), 504-40-41 (gear units), 504-40-51 (speed increasers), 513-15-46 (cranes), 521-79-26 (pressuring equipment), 521-79-42 (separators), 639-99-88 (electronic equipment), 688-79-50 (rectifier sets), 709-93-88 (surveying instruments), 709-94-11 (magnetometers) 709-99-31 and 709-99-38 (research equipment). Observations concerning the relevance and made-in-Canada status of the aforementioned classes of goods are invited.

Various changes have been made with respect to the made-in-Canada determinations relating to certain of the commodity classes already listed in Table 4. In the case of valves, the "uncertain" status attaching to commodity classes 468-19-26, 468-19-27, 468-19-37 and 468-44-69 has been replaced by more definitive determinations in the light of information provided by the Canadian Petroleum Association, supplemented, in the case of c.c. 468-19-37 (plug valves), by advice from a representative of Alberta Gas Chemicals Ltd. It would also be helpful to establish the precise identification of those commodity classes encompassing "valves, special trim" and "valves, forged steel over 10 inches" in view of the claim by the Canadian Association of Oilfield Drilling Contractors that these goods "should be ruled not made in Canada".

In the light of information obtained in connection with the Board's counterpart inquiry into engines, the made-in-Canada status of c.c. 502-18-29 ("engines, semi-diesel, nes") and 502-18-39 ("engines, diesel, nes, 100 brake horsepower and under") has been changed from "uncertain" to "not made", while both "made" and "not made" categories of goods have been identified under c.c. 502-18-69 ("engines, diesel, nes, over 500, to 1,000 bhp") and 502-18-79 ("engines, diesel, nes, over 1,000 to 1,500 bhp") - formerly categorized as of "uncertain" status - under c.c. 508-18-89 ("engines, diesel, nes, over 1,500 bhp") - formerly recorded as "made" - and under c.c. 502-25-89 ("engines, gas, nes, over 50 bhp") - formerly listed as "not made". It may be noted that in regard to two of these classes (i.e. 502-18-39 and 502-18-79) the CPA has suggested a "made" designation", while in relation to a third class (i.e. 502-18-69) it favours a "not made" determination.

With respect to other submissions received on the subject of engines, the general position adopted by Solar Turbines Canada (a division of International Harvester Canada Limited) is that "natural gas, diesel oil or dual fueled reciprocating engines and/or optional gas turbine engines are available in all practical sizes in Canada". More specifically, with respect to c.c. 502-99-32 ("engines, natural gas fired, general purpose"), Solar Turbines Canada proposes that the breakdown of this class of goods into engines

of 3,000 - 8,000 hp and "other" should be eliminated on the ground of the substitutability of products and the company asks that all pertinent engines should be regarded as "made". It takes the same general position with respect to the breakdown of products into engines of 1,000 - 8,000 up and "other" under c.c. 502-99-89 ("engines, general purpose, nes"). This firm also feels that with respect to commodity classes 502-99-18 ("engines, diesel and semi-diesel, general purpose, accessories") and 502-99-28 ("engines, gas, general purpose, accessories"), the word "accessories", as "a description of goods is unclear". It is also of the opinion that the term "engines, general purpose" is "unclear as to type, fuel, used etc.".

With respect to compressors, the original Table 4 entry pertaining to c.c. 507-11-63 has been modified to reflect the manufacture by Cooper Energy Services Ltd. of reciprocating gas-engine compressors of 13,500 hp. This company is also concerned that in relation to unlisted commodity class 507-11-51 ("compressor, gas, stationary, reciprocating, 250 hp and under") engines down to 150 hp should be shown as being made in Canada, inasmuch as it plans on producing such engines. Also in the sphere of compressors, product details relating to commodity classes 507-11-41 and 507-11-52 have been refined, and the "uncertain" status attaching to c.c. 507-11-49, 507-29-49 and 507-29-89 has been amended to "made", in the light of information provided in connection with the Board's counterpart inquiry into mining machinery and apparatus, it being assumed that, generally speaking, the goods encompassed by these classes are not end-use specific and are equally adaptable to both mining and oilfield development situations. However, some of the "made" determinations assigned to these classes evidently do not have the support of the Canadian Petroleum Association, whose position (developed on the basis of administrative interpretations) seems to be that the only gas compressors made in Canada are those of nine stages and less falling under c.c. 507-11-61. In view of the CPA's observations in this general context, the "made" designations formerly attaching to c.c. 507-36-32 ("compressor, gas, stationary, parts of") and c.c. 507-36-89 ("compressors, gas, nes, parts of") have been changed to "uncertain". Any definitive information bearing upon the goods falling within these classes would be welcome.

Among the remaining classes of goods formerly categorized as of "uncertain" made-in-Canada status, c.c. 503-15-20 ("generator sets, diesel engine, direct current") has been given a "made" designation, while goods falling under c.c. 508-95-25 and c.c. 508-95-28 (pertaining to pump jacks and pump jack parts) have been variously designated as "made", "not made" or "uncertain" in the light of information provided by the Canadian Petroleum Association and/or the Canadian Association of Oilwell Drilling Contractors. Three commodity classes in the computer field - viz: c.c. 771-22-28, 771-22-51 and 771-22-73 - have been given provisional "not made" determinations on the

basis of information contained in the submission of the CPA, while related commodity class 771-22-20 has also been given a "not made" rating in the light of information provided in connection with the Board's counterpart inquiry into mining equipment. Finally, the made-in-Canada status of two commodity classes pertaining to roller chain (c.c. 466-09-20 and 466-09-26) has been changed from "made" to "uncertain" to accommodate the doubts expressed by the CAODC respecting the correctness of the former designation in relation to certain sizes of goods. Information relating to these - and, indeed, all other - "uncertain" commodity classes would be appreciated.

Tariff Proposals

Harding Instruments Co. Ltd., electronic design consultants and manufacturers, requests that a duty be imposed on fluid flow measuring/controlling instruments, nes (c.c. 703-44-90); the company deprecates the fact that, while it pays import duties on electronic components used in the manufacture of its flow meter equipment, this class of equipment, when supplied to the oil industry, is imported duty free [under tariff items 49105-1 and 49216-1].

Grant Corporation Limited, importers and distributors of steel mechanical coiled tubing used in well servicing and oil recovery operations, requests that flexible metal tubing (c.c. 469-99-40) for oilfield use be specifically provided for in a duty-free tariff provision.

R. Angus, Alberta Limited (representing Caterpillar Tractor Co.), distributors of large earthmoving, hauling, grading and loading equipment, "feel that the 'made/not made criteria' should be replaced by the 'availability' clause or concept", so as to permit "additional end user cost savings when a unit made in Canada is not available for immediate delivery to the energy resource development industry". (In this connection specific reference is made to wheel loaders, hydraulic excavators, generator sets and fork lift trucks; fuller product details are required for the precise identification of commodity classes).

Other submissions having a bearing upon the aforementioned tariff items are less specific - viz:

The Canadian Petroleum Association (CPA) recommends in its brief:

- (i) replacement of existing tariff provisions by a single item with a weighted average rate of duty. (However, this position was subsequently changed during testimony at the public hearing);
- (ii) an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item";

- (iii) no additions to be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada;
- (iv) annual verification of the list of "made" products;
- (v) extension of present end-use preferential rates of duty to include goods used in the exploration, development and production of any products from petroleum and/or natural gas.

The Canadian Association of Oilwell Drilling Contractors (CAODC), in a general submission, states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

The Canadian Oilfield Manufacturers Association favours:

- (i) an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing oilfield machinery and apparatus;
- (ii) separate treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources;
- (iii) if (i) above should not be acceptable, retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages";
- (iv) in the event of an eo nomine approach being adopted, making dutiable all relevant items with bound rates other than Free [including tariff items 49104-1 and 49105-1] and providing duty relief, in appropriate cases, by use of Section 12 of the Customs Tariff. (Initially, this section would be applied "to all items not presently being charged a duty under the made/not made approach").

Canadian General Electric Company Limited, in a general submission, proposes:

- (i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;
- (ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;

(iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Cooper Energy Services Ltd., in a general submission, proposes:

- (i) if the Board should recommend the continuation of the end-use items now under review, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;
- (ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff;
- (iii) natural gas-fired jet engines over 8,000 bhp, produced by the company's associate, Rolls Royce of Canada Ltd., should not be "admissible at reduced rates of duty down to free";
- (iv) in order to protect the company's production of rotary centrifugal gas compressors with capacities over 140,000 cfm (which can also compress air), there should be no reduction in duty on stationary rotary air compressors of over 140,000 cfm [c.c. 507-11-42], deemed to be of a class or kind not made in Canada;
- (v) there should be no duty exemption for stationary reciprocating gas compressors up to 150 hp [c.c. 507-11-51] or for reciprocating gas-engine compressors over 13,000 hp [c.c. 507-11-63].

Solar Turbines Canada advocates:

- (i) abolition of end-use criteria "in favour of the more general machinery tariffs which describe the product regardless of its application";
- (ii) seemingly as a second choice, retention of the present "made/not made" system ("updated with current technological descriptions"), in preference to an eo nomine prescription;
- (iii) provision for duty remission in the event of non-availability of normally dutiable goods from Canadian production.
- (iv) with particular reference to c.c. 502-29-10, 502-99-18 and 502-99-28 (pertaining to engine parts and accessories) - "parts thereof should attract the identical treatment as the item. Associated components of individual description should be treated according to that description".

The Canadian Association of Geophysical Contractors (CAGC), in a general submission, proposes:

- (i) geophysical products and their material inputs (i.e. raw materials, semi-finished goods and completed products) be allowed duty remission based on an availability criterion, as in the case of the Machinery Duty Remission Program.

Staff Appraisal

1. These are very wide-ranging items in relation to which much uncertainty still exists, both in respect of the nature of the products and the made-in-Canada status of the pertinent goods.

2. Unless information is forthcoming with respect to the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or other relevant pointers.

3. Most of the proposals appear, in part, to go beyond the scope of the reference in that they encompass such elements as goods covered by non-referred items, additional end uses and/or changes in the present dutiable treatment of parts.

4. The proposals by Canadian General Electric Limited, Cooper Energy Services Ltd., and Solar Turbines Canada for the exclusion of their products from any end-use tariff arrangement, would, in the absence of alternative provisions, have the effect of placing these products under the Machinery Duty Remission Program, thus entailing the application of "availability" criteria (see 7, below), or under other existing items, with differing rates of duty.

5. A substantial proportion of the classes of goods entering under the aforementioned tariff items (including those pertaining to valves, boilers, engines of all types, turbines, generators, electric motors, gears, speed changers, compressors, pumps and heat exchangers) would seem to be possible candidates for inclusion in a new item envisaged in relation to general-purpose machinery and apparatus used in connection with the development of petroleum and natural gas resources (see below).

6. Assuming the establishment of a new item for general-purpose goods along the lines indicated above, the application of "availability" criteria in relation to the remaining products might be justified.

7. Alternatively, it might be possible to develop several eo nomine tariff items, each covering one or more of the major aspects of operations encompassed by the existing "made/not made" provisions. (These aspects and the machinery and apparatus pertaining thereto, would need to be identified). Residual classes of goods might be made subject to "availability" provisions.

8. While for the purpose of providing duty relief on otherwise dutiable articles, recourse to a mechanism such as that provided by Section 12 of the Customs Tariff does not appear to be warranted by the circumstances applying to the goods in question, consideration might be given to the use of existing Section 17 of the Financial Administration Act to effect a temporary reduction in duties for domestic industrial policy reasons.

TARIFF ITEMS 49201-1 AND 49202-1

Existing Tariff Provisions

Bolted steel tanks;
Chemical injection pumps;
Chokes, beans and flow controllers;
Separators and treaters, oil, gas or water;
All the foregoing for use in connection with oil or
natural gas wells for installation between the well-head
assembly or surface oil pumping unit and the field market-
ing valve;

49201-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	9.2 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/82		8.8 p.c.			
1/1/87		6.8 p.c.			
49202-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

The above items provide for certain specific goods at an intermediate stage in the oil and gas production process. Under both items the M.F.N. rate was bound at 9.2 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49202-1. It will be noted that the parts follow the goods for classification purposes; therefore, the Board has not been concerned with the made-in-Canada status of parts.

In 1978-80 average annual imports under tariff items 49201-1 and 49202-1 amounted to \$3.0 million and \$2.7 million respectively. Of these imports, it appears that parts dominated entries under the "made" item (49201-1), while finished products accounted for the overwhelming bulk of goods admitted under the "not made" item (49202-1).

In the absence of items 49201-1 and 49202-1, the goods would mainly fall under item 42700-1 and be subject to the Machinery Duty Remission Program. Some tanks might be classified as manufactures of iron or steel, n.o.p. (item 44603-1), dutiable at a bound rate of 10.2 p.c. Some of the tariff provisions relating to instruments, as well as items providing for unenumerated manufactures of various materials, might also be relevant.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

So far as is known, no published rulings are currently in effect in relation to goods encompassed by these two items.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Table 4, Background No. 2, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Bolted steel tanks	
469-72-49 Tanks, storage, nes	Not Made
Bolted steel tanks	
Other	Made
469-72-89 Tanks, metal, nes (except containers)	Made
Chemical injection pumps	
508-50-54 Pump, chemicals, power	Not Made
Chemical injection pumps	
Other	Made
Chokes, beans and flow controllers	Made*
Separators, oil, gas or water	
521-79-52 Separators, gas, natural gas field production	Made
Treaters, oil, gas or water	Made*
Other possibly relevant classes, not assigned to specific clauses in the item	
468-09-89 Valves, automatic operator controlled, nes	Made
521-79-89 Oil/petroleum field production machinery/equipment, nes	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Doubts concerning the relevance of commodity class 523-66-59 ("treating machinery/equipment, metal surface, nes") has resulted in its deletion. Chokes, beans, flow controllers and treaters have been assigned a "made" status on the basis of information contained in the submission of the Canadian Petroleum Association. The commodity classes encompassing these goods are not known. Because of the potentially broad coverage of unspecified goods, the made-in-Canada status of commodity class 521-79-89 has been changed from "made" to uncertain". Information is required regarding the kinds of goods entering under this class, in addition to their "made/not made" status. How, if at all, are valves (c.c. 468-09-89) pertinent goods?

Tariff Proposals

The Canadian Petroleum Association (CPA) recommends in its brief:

- (i) replacement of existing tariff provisions by a single item with a weighted average rate of duty. (However, this position was subsequently changed during testimony at the public hearing);
- (ii) an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item";
- (iii) no additions to be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada;
- (iv) annual verification of the list of "made" products;
- (v) extension of present end-use preferential rates of duty to include goods used in the exploration, development and production of any products from petroleum and/or natural gas.

The Canadian Association of Oilwell Drilling Contractors (CAODC), in a general submission, states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

The Canadian Oilfield Manufacturers Association favours:

- (i) an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing oilfield machinery and apparatus;
- (ii) separate treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources;
- (iii) if (i) above should not be acceptable, retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages";
- (iv) in the event of an eo nomine approach being adopted, making dutiable all relevant items with bound rates other than Free [including tariff items 49201-1 and 49202-1] and providing duty relief, in appropriate cases, by use of Section 12 of the Customs Tariff. (Initially, this section would be applied "to all items not presently being charged a duty under the made/not made approach").

Canadian General Electric Company Limited in a general submission, proposes:

- (i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;
- (ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;
- (iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Staff Appraisal

1. The associations' proposals appear, in part, to go beyond the scope of the reference in that they encompass such elements as goods covered by non-referred items, additional end uses and/or changes in the present dutiable treatment of parts.

2. The proposal by Canadian General Electric Limited for the exclusion of its products from any end-use tariff arrangement, would, in the absence of alternative provisions, have the effect of placing these products under the Machinery Duty Remission Program, thus entailing the application of "availability" criteria, or under other existing items, with differing rates of duty.

3. It was initially reported that tanks of bolted steel are now obsolete, having been replaced by the welded variety. However, it has been determined that at least one firm has recently been importing bolted steel tanks under tariff item 49202-1.

4. It is envisaged that valves and chemical injection pumps would be included in the proposed new tariff item pertaining to oilfield equipment (see below) should this be approved.

5. The remaining goods might be treated in an eo nomine fashion, with the "not made" goods listed in a duty-free item, as at present, and with the "made" products accommodated in an "other than the following" dutiable provision.

TARIFF ITEMS 49210-1 AND 49211-1

Existing Tariff Provisions

Machinery and apparatus for use in the distillation or recovery of products from natural gas					
49210-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	13.6 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/82		12.8 p.c.			
1/1/87		9.2 p.c.			
49211-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

Under both items the M.F.N. rate was bound at 9.2 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49211-1. It will be noted that the classification of parts follows that of the associated goods and is not dependent on the made-in-Canada status of the parts themselves. Consequently, insofar as the terms of reference are concerned, the Board does not need to seek, and has not sought, information with respect to parts.

Imports under item 49210-1 averaged \$5.6 in the years 1978-80. Under item 49211-1 they averaged \$12.6 million.

These items are considered to be all embracing, that is they cover machinery or apparatus of any kind, and parts thereof, imported for the specified end uses. Consequently, they cover goods which, in the absence of these or any other relevant end-use items, would fall under many different items in the Customs Tariff. However, much of the machinery would fall into item 42700-1, with a bound rate of 9.2 p.c. and be subject to the Machinery Duty Remission Program. Many of the items which would relate to apparatus have bound rates of 10.2 p.c., with no provisions for relief for goods "not made" or "not available" in Canada.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings relating specifically to this pair of items, but Customs and Excise Memoranda D51-8 (compressors) and D51-9 (heat exchangers) seem to be relevant.

(b) Commodity Classes

The following listing, based upon a modified version of information contained in Background No. 2, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

Commodity Class		Provisional Made-in-Canada Status
Machinery and apparatus for use in the distillation or recovery of products from natural gas		
468-09-50	Valves, automatic operator, pneumatic controlled	Made
468-09-89	Valves, automatic operator, controlled, nes	Made
468-19-20	Valves, gate, iron, except power To 6" screwed/60" flanged	Made
	Other	Not Made
468-19-22	Valves, globe, iron, except power To 10" flanged	Made
	Other	Not Made
468-19-23	Valves, check, iron, except power To 20" flanged	Made
	Other	Not Made
468-19-26	Valves, ball, iron, except power To 2" screwed	Made*
	Other	Not Made*
468-19-29	Valves, iron, nes, except power	Made
468-19-30	Valves, gate, steel, except power To 2" screwed/48" flanged	Made
	Other	Not Made
468-19-32	Valves, globe, steel, except power To 2" screwed/12" flanged	Made
	Other	Not Made
468-19-33	Valves, check, steel, except power To 4" screwed/48" flanged	Made
	Other	Not Made
468-19-36	Valves, ball, steel, except power To 3" screwed/12" flanged	Made
	Other	Not Made
468-19-37	Valves, plug, steel, except power To 4" screwed/12" flanged; Up to 900 ASA rating	Made*
	900 ASA rating & over	Not Made*
	Other	Not Made*
468-19-39	Valves, steel, nes, except power	Made
468-44-19	Valves, relief, nes Bronze to 2"	Made*
	Other	Not Made*
468-44-59	Valves, air control, nes To 4"	Made*
	Other	Not Made*
468-44-79	Valves, titanium, nes	Made*
468-44-89	Valves, nes	Made
501-19-21	Boiler, power, water tube type, package unit To 150,000 lb/hr	Made
	Others	Not Made*
501-19-29	Boiler, power, water tube type, nes	Uncertain*
501-29-89	Boiler, power, nes	Uncertain*
501-49-71	Tubes, power boiler, bent or fabricated	Uncertain*
501-49-89	Boilerhouse equipment, power nes	Made
502-40-89	Turbine, gas, nes, over 20,000 hp 20,000-35,000 hp	Made*
	Others	Uncertain*
502-99-28	Engines, gas, general purpose, accessories	Uncertain*
502-99-32	Engines, natural gas fired, general purpose 3,000-8,000 hp	Made*
	Other	Not Made*
502-99-74	Engines, compressed gas, without combustion, general purpose	Not Made
504-40-59	Speed increaser, power transmission, nes	Made
505-95-49	Burner, gas type, industrial processing, nes	Made

507-11-41	Compressor, air, stationary, rotary, vane/screw Vane 30-40 hp and screw 40-50 hp Others	Made* Not Made*
507-11-52	Compressor, gas, stationary, reciprocating, 251-1,000 hp 301-1,000 hp Others	Made* Not Made*
507-11-53	Compressor, gas, stationary, reciprocating, over 1,000 hp	Made*
507-11-61	Compressor, gas, stationary, centrifugal type	Made*
507-11-63	Engine-compressor, gas, reciprocating 90-13,500 hp Others	Made* Not Made*
507-11-69	Compressor, gas, stationary, nes	Made*
507-29-89	Compressor, gas, nes	Made*
508-04-90	Pump, centrifugal type, nes	Made
509-40-15	Heat exchanger, shell & tube type, industrial	Made*
509-40-20	Heat exchanger, plate type, industrial	Not Made*
509-40-35	Heat exchanger, regenerative type, industrial	Uncertain*
509-40-90	Heat exchanger, industrial, nes	Made
521-99-25	Gas recovery machinery, petroleum refining	Uncertain*
521-99-26	Distillation machinery, petroleum refining	Uncertain*
521-99-79	Natural gas products machinery/equipment, nes	Uncertain*
688-59-90	Control equipment, electrical, industrial, nes	Uncertain*
705-31-80	Gas chromatography equipment	Made*
771-22-20	Computers, digital, central processing unit	Not Made*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Commodity class 521-79-58, which refers to "parts", has been deleted from the listing in Table 4. Commodity classes 501-19-29, 501-29-89, 501-49-71 and 509-40-35 have been added as a result of a review of 1979-80 import data. Their relevance and made-in-Canada status are uncertain; observations thereon are invited. Various modifications and refinements have been made with respect to the product descriptions and made-in-Canada designations of certain of the commodity classes pertaining to turbines, compressors and valves. Thus, the "uncertain" designation formerly attaching to c.c. 502-40-59 ("turbines, gas, nes, over 20,000 hp") is now retained only in relation to gas turbines with capacities in excess of 35,000 hp, since there is an apparent concurrence between the Canadian Petroleum Association (CPA) and Solar Turbines Canada that gas turbines with capacities in the range 20,000-35,000 hp are made in Canada. With respect to the status of larger turbines covered by this commodity class there would appear to be a difference of opinion.

With respect to compressors, the original Table 4 entry pertaining to c.c. 507-11-63 has been modified to reflect the manufacture by Cooper Energy Services Ltd. of reciprocating gas-engine compressors of 13,500 hp. Also in the sphere of compressors, product details relating to commodity classes

507-11-41 and 507-11-52 have been refined, and the "uncertain" status attaching to c.c. 507-29-89 has been amended to "made", in the light of information provided in connection with the Board's counterpart inquiry into mining machinery and apparatus, it being assumed that, generally speaking, the goods encompassed by these classes are not end-use specific and are equally adaptable to both mining and natural gas processing situations. However, some of the "made" determinations assigned to these classes evidently do not have the support of the CPA, whose position (developed on the basis of administrative interpretations) seems to be that the only gas compressors made in Canada are those of nine stages and less falling under c.c. 507-11-61.

In the case of valves, the "uncertain" status attaching to commodity classes 468-19-26, 468-19-37, 468-44-19 and 468-44-79 has been replaced by more definitive determinations in the light of information provided by the Canadian Petroleum Association supplemented, in the case of c.c. 468-19-37 (plug valves), by advice from a representative of Alberta Gas Chemicals Ltd. The made-in-Canada status of c.c. 468-44-59 ("valves, air control, nes") has been determined on the basis of information obtained in connection with the inquiry into mining equipment. It would also be helpful to establish the precise identification of those commodity classes encompassing "valves, special trim" and "valves, forged steel over 10 inches", in view of the claim by the Canadian Association of Oilwell Drilling Contractors (CAODC) that these goods "should be ruled not made in Canada".

In an entirely different sphere of production, the made-in-Canada status of c.c. 705-31-80 ("gas chromatography equipment") has been changed from "not made" to "made" in recognition of Canadian manufacturing activity reported in this area. Conversely, the status of c.c. 771-22-20 ("computers, digital, central processing unit") has been changed from "uncertain" to "not made" in the light of information supplied to the Board with respect to equipment used in the mining sector.

With respect to c.c. 502-99-32 ("engines, natural gas fired, general purpose"), Solar Turbines Canada proposes that the breakdown of this class of goods into engines of 3,000-8,000 hp and "other" should be eliminated on the ground of the substitutability of products. This company also feels that c.c. 507-11-69 ("compressor, gas, stationary, nes") is too broad a class to justify an unqualified "made" designation. In addition, there are several other very broad ("nes") commodity classes in relation to which it would be helpful to possess a finer breakdown of goods, together with an indication of their made-in-Canada status. Among these classes is c.c. 502-99-28 ("engines, gas, general purpose, accessories"), which could embrace "apparatus".

Finally, attention is drawn to circumstances bearing upon the made-in-Canada determinations of several classes of goods as reported here and in Table 4. Although, in relation to c.c. 501-19-21 ("boiler, power, water tube type, package unit"), boilers with capacities in excess of 150,000 lb/hr were reported to the Board as "not made", it is understood that at least one Canadian producer has the capability to produce such equipment and has done so in the past. It is also understood that Revenue Canada considers all heat exchangers to constitute a single made-in-Canada class. In spite of this, one relevant commodity class (c.c. 509-40-20) is listed as "not made" and another (c.c. 509-40-35) has an "uncertain" designation.

Tariff Proposals

The Canadian Gas Association (CGA) favours:

- (i) "maintaining the present made in Canada criteria to the extent possible";
- (ii) in an eo nomine approach, identifying "all goods by specific size, model, rating etc." and subjecting the tariff classification to regular review;
- (iii) restricting the eo nomine listing "to those goods which are clearly not going to be made in Canada in the near future";
- (iv) adding to the eo nomine listing of duty-free goods by use of Section 273 of the Customs Act or through a modified version of Section 12 of the Customs Tariff;
- (v) extending the scope of the reference to "encompass all goods that are used in the production, gathering, processing, transmission, storage and distribution of natural gas". (Existing criteria restrict the scope of the pertinent end-use items to the gas processing plant);
- (vi) establishing a new tariff item that would "classify the machinery and apparatus required in the natural gas industry under one tariff classification". Such an item might be worded:

Machinery and apparatus for use in the gathering, processing, ing, transmission, distribution or storage of natural gas, other than the following	10 p.c. Free
(Listed Goods)	

- (vii) according duty-free entry on an eo nomine basis to parts imported for use in the manufacture, repair or construction of goods entitled to entry under the aforementioned proposed tariff item. (Special mention is made of "certain key production parts" that "will be required to be imported for use in the manufacture of centrifugal compressors");
- (viii) the use of a duty remission procedure to accommodate "specific exclusions" when otherwise dutiable goods are not available from Canadian sources;
- (ix) as an alternative to the foregoing, adding the word "apparatus" to tariff item 42700-1, so that goods which are not now covered by end-use provisions and which are not available from Canadian production, will be provided with duty relief, rather than being subject to duty according to their component material of chief value.

The Canadian Petroleum Association (CPA) recommends in its brief:

- (i) replacement of existing tariff provisions by a single item with a weighted average rate of duty. (However, this position was subsequently changed during testimony at the public hearing);
- (ii) an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item";
- (iii) no additions to be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada;
- (iv) annual verification of the list of "made" products;
- (v) extension of present end-use preferential rates of duty to include goods used in the exploration, development and production of any products from petroleum and/or natural gas.

The Canadian Association of Oilwell Drilling Contractors (CAODC), in a general submission, states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

The Canadian Oilfield Manufacturers Association favours:

- (i) an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing natural gas processing machinery and apparatus;
- (ii) separate treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources;
- (iii) if (i) above should not be acceptable, retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages";
- (iv) in the event of an eo nomine approach being adopted, making dutiable all relevant items with bound rates other than Free [including tariff items 49210-1 and 49211-1] and providing duty relief, in appropriate cases, by use of Section 12 of the Customs Tariff. (Initially, this section would be applied "to all items not presently being charged a duty under the made/not made approach").

Canadian General Electric Company Limited, in a general submission, proposes:

- (i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;
- (ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;
- (iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Cooper Energy Services Ltd., in a general submission, proposes:

- (i) if the Board should recommend the continuation of the end-use items now under review, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;
- (ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff;
- (iii) natural gas-fired jet engines over 8,000 bhp, produced by the company's associate, Rolls Royce of Canada Ltd., should not be "admissible at reduced rates of duty down to free";
- (iv) in order to protect the company's production of rotary centrifugal gas compressors with capacities over 140,000 cfm (which can also compress air), there should be no reduction in duty on stationary rotary air compressors of over 140,000 cfm [c.c. 507-11-42], deemed to be of a class or kind not made in Canada;
- (v) there should be no duty exemption for stationary reciprocating gas compressors up to 150 hp [c.c. 507-11-51] or for reciprocating gas-engine compressors over 13,000 hp [c.c. 507-11-63].

Solar Turbines Canada advocates:

- (i) abolition of end-use criteria "in favour of the more general machinery tariffs which describe the product regardless of its application";
- (ii) seemingly as a second choice, retention of the present "made/not made" system ("updated with current technological descriptions"), in preference to an eo nomine prescription;
- (iii) provision for duty remission in the event of non-availability of normally dutiable goods from Canadian production.

Union Carbide Canada Limited requests:

- (i) a change in the dutiable treatment of H.F. (high flux) tubing (c.c. 521-99-79), this being a comparatively new, patented product "not available

from any Canadian sources" but dutiable under tariff item 49210-1 as "parts" of "made" equipment such as chillers or heat exchangers, even though it "represents in excess of 50 per cent of the cost of a given unit" of such equipment. The company further notes that "a provision also exists whereby this tubing may also enter free of duty under the provisions of tariff item 49220-1" (materials for use in the manufacture of the goods specified in tariff items ... 49210-1, 49211-1 ...).

Staff Appraisal

1. Unless information is forthcoming with respect to the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or other relevant pointers.

2. Most of the proposals appear, in part, to go beyond the scope of the reference in that they encompass such elements as goods covered by non-referred items, additional end uses, and/or changes in the present dutiable treatment of parts.

3. The circumstances relating to the goods falling under the aforementioned tariff items do not seem sufficiently "special" as to warrant the retention of existing "made/not made" provisions or the introduction of "availability" criteria.

4. Most of the classes of goods entering under the aforementioned items (including those pertaining to valves, boilers, engines, turbines, burners, compressors, pumps and heat exchangers) would seem to be possible candidates for inclusion in a new item envisaged in relation to general-purpose machinery and apparatus used in connection with the development of petroleum and natural gas resources (see below).

5. Should a new item such as that mentioned above, be introduced, it could leave behind a residue comprised, in essence, of a few broad classes of goods of "uncertain" made-in-Canada status (see 1, above).

6. While for the purpose of providing duty relief on otherwise dutiable articles, recourse to a mechanism such as that provided by Section 12 of the Customs Tariff does not appear to be warranted by the circumstances applying to the goods in question, consideration might be given to the use of existing Section 17 of the Financial Administration Act to effect a temporary reduction in duties for domestic industrial policy reasons.

TARIFF ITEMS 49215-1 AND 49216-1

Existing Tariff Provisions

Machinery and apparatus for use in producing unrefined oil from shales or for operating oil-sands by mining operations or for extracting oil from the sands so mined:

49215-1	Of a class or kind made in Canada; parts thereof				
1/1/81	5 p.c.	9.2 p.c.	20 p.c.	5 p.c.	6.8 p.c.
1/1/82		8.8 p.c.			
1/1/87		6.8 p.c.			
49216-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	Free	Free	Free

Under both items the M.F.N. rate was bound at 6.8 p.c. in the MTN. However, free entry continues to be accorded goods entering as "not made" under item 49216-1. The provisions are considered to be all-embracing and to include all machinery and apparatus, and parts thereof, imported for the purposes specified in the preamble to the items, with the exception of "walking draglines, electrically operated, for use in open pit mining, and parts thereof", which fall under duty-free item 49217-1. It will be noted, however, that the classification of parts follows that of the relevant machine or apparatus; consequently, the Board is not concerned with the made-in-Canada status of parts.

Between the years 1966 and 1980 inclusive, the largest importations under these provisions occurred in 1976, when goods valued at \$16.0 million and \$89.2 million entered under tariff items 49215-1 and 49216-1 respectively. Subsequently, during the years 1978-80, goods with average annual values of \$7.7 million and \$15.3 million were imported. Parts (as opposed to finished products) appear to have accounted for approximately two-fifths of recent imports under the "made" item (49215-1) and for four-fifths of imports under the counterpart provision (49216-1).

In the absence of items 49215-1 and 49216-1, much of the machinery would be classified under item 42700-1 and be subject to the Machinery Duty Remission Program. Some of the other goods (including apparatus) would be classified under provisions encompassing unspecified manufactures of various metals or under parts of the electrical schedule.'

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings in the D51 series relating specifically to classes or kinds of machinery or apparatus imported for the prescribed end uses of these items. However, in view of the all-embracing nature

of the items it is not surprising that there are any number of rulings relating to goods which might be so used. The pertinent Customs Memoranda include the following: D51-4 (wire ropes); D51-8 (compressors); D51-9 (heat exchangers and burners); D51-12 (pumps); D51-13 (conveyors); D51-15 (diesel engines); D51-17 (generators); D51-19 (ball bearings); D51-21 (cranes and hoists); D51-22 (valves); D51-36 (hose).

The brief of Syncrude Canada Ltd. to the Tariff Board (see below) also cites various unpublished rulings whereby certain products encompassed by commodity classes 504-40-88 ("speed reducer, power transmission, parts of") and 504-81-20 ("couplings, hydraulic, power transmission") are held to be of classes or kinds made in Canada, while certain products falling under commodity classes 521-79-71 ("extracting machinery, thermal type, oil sands"), 521-79-78 ("oil producing machinery/equipment, oil sands, nes, parts of"), 521-79-79 ("oil producing machinery/equipment, oil sands, nes"), 521-79-89 ("oil/petroleum field production machinery/equipment, nes") and 703-78-10 ("process & multi-function control machines/apparatus, nes") are considered to be of classes or kinds not so made.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 2, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Machinery and apparatus for use in producing unrefined oil from shales or for operating oil-sands by mining operations or for extracting oil from the sands so mined	
321-04-10	Rubber belts and belting, material, conveying	Made
387-09-40	Belting, conveyor, vinyl coated	Not Made
387-38-89	Belting, textile, nes, rubber coated or dipped	Made
447-39-40	Railway rails, 1 or S, 100 lb & over per yard	Uncertain*
448-68-35	Pipes, standard, ss, seamless, new	Uncertain*
448-68-55	Pipes/piping, pressure, ss, seamless, new	Uncertain*
448-69-45	Tubing, mechanical, as exc. ss, seamless, new	Uncertain*
449-79-30	Wire rope, new, 1" to 2" dia 8 strand & under	Made*
467-17-30	Wire electrode, weld, mild steel, flux cored	Uncertain*
468-09-89	Valves, automatic operator controlled, nes	Made*
468-19-20	Valves, gate, iron, except power To 6" screwed/60" flanged Others	Made* Not Made*
468-19-23	Valves, check, iron, except power To 20" flanged Others	Made* Not Made*

468-19-24	Valves, butterfly, iron, except power	Made*
468-19-29	Valves, iron, nes except power	Made*
468-19-30	Valves, gate, steel, except power	
	To 2" screwed/48" flanged	Made*
	Others	Not Made*
468-19-33	Valves, check, steel, except power	
	To 4" screwed/48" flanged	Made*
	Others	Not Made*
468-19-34	Valves, butterfly, steel, except power	Made*
468-19-39	Valves, steel, nes except power	
	Victaulic valves	Not Made*
	Others	Made*
468-44-49	Valves, pinch, nes	Made*
468-44-89	Valves, nes	Made*
468-55-90	Pipe fittings, I & S, welding types, fin, nes	Uncertain*
469-59-39	Belting, woven wire, nes	Made*
469-75-39	Insulated cable, nes, electrical	Made*
469-99-40	Tubing, flexible metal, except electric	Not Made*
474-99-30	Belting, asbestos	Uncertain*
493-29-79	Hose, rubber, reinforced nes, w or w/o cplg	Uncertain*
501-49-71	Tubes, power boiler, bent or fabricated	Uncertain*
501-49-72	Drums, power boiler	Uncertain*
502-99-18	Engines, diesel & semi-diesel, general purpose, accessories	Uncertain*
503-09-30	Generators, alternating current, 150 kw & over	Made
503-13-30	Generator sets, steam turbine	Uncertain*
503-69-44	Motors, electric, direct current, over 200 hp	Made
503-69-55	Generators, direct current, 150 kw & over	Made*
503-69-70	Motors, electric, universal	Made
503-69-84	Motors, electric, traction	Made
503-69-89	Motors, electric, nes	
	Triple-rated Cema-D "Hi Slip", "Hi Torque" and 4,500 hp & over, thyristor controlled	Not Made
	Other	Made
504-05-39	Bearing, ball, 1-row, ov 0.5 to 7.5 in od nes	Uncertain*
504-05-89	Bearing, ball, unmounted, nes	Made*
504-15-59	Bearing, SPH roller, single row nes	Uncertain*
504-16-49	Bearing, taper rlr, thrust type nes	Uncertain*
504-40-89	Speed reducer, power transmission, nes	Made
504-44-61	Pinions, power transmission, gear type	Uncertain*
504-44-90	Gears, power transmission, nes	Not Made*
504-81-20	Couplings, hydraulic, power transmission	Not Made
505-95-89	Burner, industrial processing type, nes	Made*
507-99-49	Pump, vacuum, industrial, nes	Made*
508-50-66	Pump, submersible, portable, powered	Made
508-50-89	Pump, power, nes	Made
508-95-89	Pump, nes	Made*
509-40-20	Heat exchanger, plate type, industrial	Not made*
509-40-90	Heat exchanger, industrial, nes	Made
509-79-23	Filters, gas, electrostatic type, industrial	Uncertain*
509-85-89	Filtering machinery, industrial, nes	Made*
509-87-89	Separators, centrifugal, industrial type, nes	Made*
511-81-39	Conveyor, bulk, vibratory type, nes	Made
521-17-89	Well drilling machinery, oil nes	Made*
521-31-13	Bucket, dragline, power shovel/crane, excavating	Uncertain*
521-36-30	Loader, front end, integral excavating, wheel type	
	To 15 cu. yd. bucket capacity	Made
	Others	Not Made

521-39-89	Excavating machinery, nes Bucket wheel reclaimer with bucket capacity of 2.48 cu. yd. or more Other	Not Made* Uncertain*
521-79-29	Pumping machinery/equipment sub-surface oil well, nes	Made*
521-79-71	Extracting machinery, thermal type, oil sands	Uncertain*
521-79-79	Oil producing machinery/equipment oil sands, nes	Uncertain*
521-79-89	Oil/petroleum field production machinery/ equipment, nes	Uncertain*
653-69-90	Heaters, water tank, electric nes	Uncertain*
684-99-90	Switchgear & protective equipment nes	Made*
688-59-90	Control equipment, electrical, industrial, nes	Made*
703-44-90	Fluid flow measuring/controlling instru- ments nes	Made*
703-78-10	Processing & multi-function control machinery/apparatus nes	Made*
705-31-80	Gas chromatography equipment	Made*
771-22-20	Computers, digital, central processing unit	Not Made*
771-22-89	Computer equipment nes	Not Made*

Compared with the original listing in Table 4, the list of commodity classes has been considerably expanded in the light of the composition of imports in 1979-80 and/or indications of interest on the part of Syncrude Canada Ltd. In the case of a substantial number of these added classes it has proved possible to assign a provisional made-in-Canada determination on the basis of information obtained in connection with goods falling under other referred items in the oilfield and mining schedules. Thus, "made" designations have been attached to the following additional commodity classes: 449-79-30 (wire rope), 468-09-89 to 468-44-89 (valves of different types), 469-59-39 (belting), 469-75-39 (insulated cable), 503-69-55 (generators), 504-05-89 (ball bearings), 507-99-49, 508-50-66 and 508-95-89 (pumps), 509-85-89 (filtering machinery), 509-87-89 (separators), 521-17-89 (well drilling machinery), 521-79-29 (pumping machinery), 684-99-90 (switchgear), 703-44-90 (fluid flow measuring instruments), 703-78-10 (control machinery), and 705-31-80 (gas chromatography equipment).

Among other additional commodity classes the following have been provisionally categorized as "not made": c.c. 469-99-40 (tubing), 504-44-90 (gears), 509-40-20 (heat exchangers), and 771-22-89 (computer equipment). There remains a substantial residue of classes of "uncertain" made-in-Canada status - viz: 447-39-40 (railway rails), 448-68-35 and 448-68-55 (pipes/piping), 448-69-45 (tubing), 467-17-30 (wire electrodes), 468-55-90 (pipe fittings), 493-29-79 (rubber hose), 501-49-71 and 501-49-72 (power boiler tubes/drums), 503-13-30 (generator sets) 504-05-39, 504-15-59 and 504-16-49 (ball/roller bearings), 504-44-61 (pinions), 509-79-23 (gas filters), 521-31-13 (excavator buckets), and 653-69-90 (water tank heaters). Observations concerning the relevance and made-in-Canada status of the aforementioned classes of goods are especially invited.

Various changes have been made with respect to the made-in-Canada determinations relating to certain of the commodity classes already listed in Table 4. On the basis of information provided by Syncrude Canada Ltd., bucket wheel reclaimers with a bucket capacity of 2.48 cubic yards or more have been given a "not made" status under c.c. 521-39-89 ("excavating machinery, nes"), while, on account of the broad coverage of this class, the status of the remaining goods has been changed from "made" to "uncertain". In the light of information obtained in connection with the counterpart inquiry into mining equipment, the made-in-Canada status of c.c. 505-95-89 ("burner, industrial processing type, nes") has been changed from "uncertain" to "made", while the status of c.c. 771-22-20 ("computers, digital, central processing unit") has been altered from "uncertain" to "not made". On the basis of information provided by Revenue Canada, electrical industrial control equipment, nes (c.c. 688-59-90) has been transferred from the provisional "not made" to the "made-in-Canada" list. In this connection, it is understood that there are more manufacturers of this kind of equipment than the three firms indicated in Table 5B of Background No. 2. Finally, in view of the observations of Syncrude Canada Ltd. and the obviously broad coverage of the pertinent product classes, the provisional made-in-Canada determinations with respect to c.c. 521-79-71 ("extracting machinery, thermal type, oil sands"), 521-79-79 ("oil producing machinery/equipment, oil sands, nes"), and 521-79-89 ("oil/petroleum field production machinery/equipment, nes") have been changed from "made" to "uncertain".

Observations are invited in regard to the various modifications indicated above, as well as in relation to the made-in-Canada status of any classes of goods designated as "uncertain". In addition, there are a number of very broad ("nes") commodity classes, not singled out for special mention, in relation to which it would be helpful to possess a finer breakdown of goods, together with an indication of their made-in-Canada status. Among these classes is c.c. 502-99-18 ("engines, diesel and semi-diesel, general purpose, accessories"), which could embrace "apparatus". With respect to this class, Solar Turbines Canada is of the opinion that the term "engines, general purpose" is "unclear as to type, fuel used etc".

Tariff Proposals

Syncrude Canada Ltd. submits:

- (i) "end use classification of tar sands tariff items is important and should continue";

(ii) qualifying goods should include:

- (a) parts of "not made" equipment already classified under tariff item 49216-1 (i.e. a valve for a bucket wheel reclaimer should be treated as part of the reclaimer and not as a general-use valve);
- (b) equipment not imported directly by the user but ordered through a Canadian supplier, who becomes the importer of record;
- (iii) "the present system of obtaining Departmental Rulings remain in effect until such time that it be superseded by the eo nomine approach regarding tariff item 49215-1";
- (iv) machinery and apparatus deemed to be made in Canada and supported by rulings in the D51 series should be categorized under tariff item 49215-1 and made subject to the prescribed M.F.N. and B.P. rates of duty;
- (v) machinery and apparatus deemed to be not made in Canada should continue to be classified under duty-free item 49216-1;
- (vi) this duty-free tariff item should be qualified by a n.o.p. ("not otherwise provided for") clause, "since it is easier to define the known than to speculate upon future technology". (Therefore, "all new machinery and apparatus will initially be classified in 49216-1" and be admitted duty free);
- (vii) any new products which are made in Canada but are not listed in tariff item 49215-1 could later be reclassified (see (ix) below);
- (viii) the development of an eo nomine system of classification "will require considerable time, effort and review of the items to be categorized";
- (ix) a uniform procedure should be established for the reclassification of goods under "made/not made" tariff provisions in order to minimize any inconvenience or uncertainty;
- (x) the Machinery Duty Remission Program should be retained "as it supports end users when certain machinery is not available in Canada".

Greening Donald Co. Ltd., manufacturers of wire ropes and other equipment for use in mining operations, proposes:

- (i) making parts subject to their own made-in-Canada determination, rather than relating their status to that of the finished product of which they are a part, as is presently the case;
- (ii) in the event that (i) above is not acceptable, providing in a separate dutiable item for wire ropes as parts of loading machines, power shovels and draglines. [The wire ropes used for electrically-operated draglines now enter duty-free under tariff item 49217-1].

Harding Instruments Co. Ltd., electronic design consultants and manufacturers, requests that a duty be imposed on fluid flow measuring/controlling instruments, nes (c.c. 703-44-90); the company deprecates the fact that, while it pays import duties on electronic components used in the manufacture of its flow meter equipment, this class of equipment, when supplied to the oil industry, is imported duty free [under tariff items 49105-1 and 49216-1].

Grant Corporation Limited, importers and distributors of steel mechanical coiled tubing used in well servicing and oil recovery operations, requests that flexible metal tubing (c.c. 469-99-40) for oilfield use be specifically provided for in a duty-free tariff provision.

R. Angus, Alberta Limited (representing Caterpillar Tractor Co.), distributors of large earthmoving, hauling, grading and loading equipment, "feel that the 'made/not made criteria' should be replaced by the 'availability' clause or concept", so as to permit "additional end user cost savings when a unit made in Canada is not available for immediate delivery to the energy resource development industry". (In this connection specific reference is made to wheel loaders, hydraulic excavators, generator sets and fork lift trucks; fuller product details are required for the precise identification of commodity classes).

Other submissions having a bearing upon the aforementioned tariff items are less specific - viz:

The Canadian Petroleum Association (CPA) recommends in its brief:

- (i) replacement of existing tariff provisions by a single item with a weighted average rate of duty. (However, this position was subsequently changed during testimony at the public hearing);
- (ii) an eo nomine approach under which "only specifically defined goods currently being manufactured in Canada be afforded duty protection, with all other goods falling into a non-dutiable item";
- (iii) no additions to be made to the list of dutiable goods without "adequate evidence" of their manufacture in Canada;
- (iv) annual verification of the list of "made" products;
- (v) extension of present end-use preferential rates of duty to include goods used in the exploration, development and production of any products from petroleum and/or natural gas.

The Canadian Association of Oilwell Drilling Contractors (CAODC), in a general submission, states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

The Canadian Oilfield Manufacturers Association favours:

- (i) an extension of the present Machinery Duty Remission Program to include the referred tariff provisions encompassing oilfield machinery and apparatus;
- (ii) separate treatment of parts, with protection thereof if made in Canada, and free entry when used in Canadian manufacturing and not available from domestic sources;
- (iii) if (i) above should not be acceptable, retention of the present "made/not made" tariff provisions, incorporating the new bound rates for the paired items, and applying a more "flexible" concept of "made" goods so as to "encourage and protect new manufactured products in their critical developmental stages";
- (iv) in the event of an eo nomine approach being adopted, making dutiable all relevant items with bound rates other than Free [including tariff items 49215-1 and 49216-1] and providing duty relief, in appropriate cases, by use of Section 12 of the Customs Tariff. (Initially, this section would be applied "to all items not presently being charged a duty under the made/not made approach").

Canadian General Electric Company Limited, in a general submission, proposes:

- (i) its products, being general purpose in nature, be excluded from the end-use tariff provisions under review;
- (ii) an eo nomine listing of "not made" goods in a duty-free item with "made" goods provided for in an "other than the following" provision at the final concession rate of duty;
- (iii) in order to eliminate the problems in the precise identification of "not made" goods, and to add a greater degree of flexibility, an approach similar to that provided for under Section 12 of the Customs Tariff for chemicals and plastics.

Cooper Energy Services Ltd., in a general submission, proposes:

- (i) if the Board should recommend the continuation of the end-use items now under review, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;
- (ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff.

Solar Turbines Canada advocates:

- (i) abolition of end-use criteria "in favour of the more general machinery tariffs which describe the product regardless of its application";

- (ii) seemingly as a second choice, retention of the present "made/not made" system ("updated with current technological descriptions"), in preference to an eo nomine prescription;
- (iii) provision for duty remission in the event of non-availability of normally dutiable goods from Canadian production.

The Canadian Association of Geophysical Contractors (CAGC), in a general submission, proposes:

- (i) geophysical products and their material inputs (i.e. raw materials, semi-finished goods and completed products) be allowed duty remission based on an availability criterion, as in the case of the Machinery Duty Remission Program.

Staff Appraisal

1. These are very wide-ranging items in relation to which much uncertainty still exists, both in respect of the nature of the products and the made-in-Canada status of the pertinent goods.

2. Unless information is forthcoming with respect to the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of import data or other relevant pointers.

3. The proposals by Greening Donald Co. Ltd. and the Canadian Oilfield Manufacturers Association for allowing the dutiable status of parts to be determined independently of the status of the main goods appears to go beyond the scope of the reference.

4. However, the establishment of a separate tariff item for wire rope, with a weighted average rate of duty, might warrant consideration.

5. The proposals by Canadian General Electric Limited, Cooper Energy Services Ltd., and Solar Turbines Canada for the exclusion of their products from any end-use tariff arrangement, would, in the absence of alternative provisions, have the effect of placing these products under the Machinery Duty Remission Program, thus entailing the application of "availability" criteria (see 7, below), or under other existing items, with differing rates of duty.

6. One possibility for replacing the "class or kind made/not made in Canada" prescription, would be to develop several eo nomine tariff items, each covering one or more of the major aspects of tar-sands operations. (These aspects and the machinery and apparatus pertaining thereto, would need to be

identified). Should it not be possible to cover all relevant goods in this manner, due to uncertainty or the scale of the undertaking, the application of "availability" criteria in relation to the remaining products might be justified.

7. However, the wholesale application of "availability" criteria, or retention of existing "made/not made" provisions, does not appear warranted.

8. A substantial proportion of the classes of goods entering under the aforementioned tariff items (including those pertaining to valves, generators, electric motors, gears, burners, pumps and heat exchangers) would seem to be possible candidates for inclusion in a new item envisaged in relation to general-purpose machinery and apparatus used in connection with the development of petroleum and natural gas resources (see below).

9. While for the purpose of providing duty relief on otherwise dutiable articles, recourse to a mechanism such as that provided by Section 12 of the Customs Tariff does not appear to be warranted by the circumstances applying to the goods in question, consideration might be given to the use of existing Section 17 of the Financial Administration Act to effect a temporary reduction in duties for domestic industrial policy reasons.

NON-REFERRED TARIFF ITEMS

Many of the parties making representations to the Board with respect to the referred items in the oil and gas schedule also made representations concerning items where the classification of goods is not dependent on their made-in-Canada status. Such items were perforce not included in Reference No. 157. The petitioners' views on these items are summarized in the following paragraphs.

The Canadian Petroleum Association expresses concern that not all phases of the recovery and processing of petroleum and/or natural gas are covered by the end-use provisions of the items numbered from 49101-1 to 49220-1. Similar concern is expressed by the Canadian Gas Association. Both groups favour broad provisions covering all aspects of their industries, which would go beyond the referred items to embrace all items, referred or not, in the 491 and 492 series, as well as attracting goods from other parts of the Customs Tariff. Of particular concern are questions relating to the development of new methods for recovering oil from tar sands which might not meet the provisions of items 49215-1 and 49216-1, and the lack of any specific tariff accommodation for equipment for upgrading such oil to the equivalent of marketable crude. Both Associations also cite more specific areas of concern outside the terms of reference, where they seek changes.

The Canadian Petroleum Association notes that not all sizes of casing covered by item 39905-1 are produced in Canada, but that these sizes are all dutiable as the item makes no exception for "not made" or "not available" goods. The Canadian Association of Oilwell Drilling Contractors also suggests the application of "made/not made" criteria to this item, as well as to item 40000-1 (fittings and couplings) and certain goods under items 49101-1, 49102-1 and 49103-1. The Canadian Gas Association also cites the interest of its members in items 49103-1, 49106-1 and 49110-1 as part of a broader tariff arrangement. As an alternative to a broader item, the Association suggests that the word "apparatus" be added into item 42700-1, thereby bringing such non-referred equipment used in the development of oil and gas resources within the scope of the Machinery Duty Remission Program.

The Canadian Water Well Association points out the similarity of the operations of its members to those of entities in the oil and gas sector. It notes, however, that the only tariff items covering goods used in oilfield and related activities to which its members have access are referred items 41001-1 and 41002-1, pertaining to drills, bits and augers. The Association seeks to have the common preamble to items 49101-1 to 49110-1 amended in order to encompass goods used in the development of water resources; this would grant its members access, not only to referred items 49104-1 and 49105-1, but also to

non-referred items 49101-1, 49102-1, 49103-1, 49106-1 and 49110-1. Additionally, the Association seeks to have the coverage of non-referred item 39905-1 extended to include pipes, casing etc. used in connection with water wells, as well as oil or natural gas wells. Regardless of the veracity of the claims of comparability, these various proposals appear to go well beyond the scope of the present reference.

The case put forward by Greening Donald Co. Ltd., Hamilton, Ontario, has to do with the relationship between parts and finished goods. Insofar as referred items are concerned, it notes that wire rope and other wire products competitive with those made by the company are being admitted free of duty under certain "not made" items where the parts follow the goods, especially items 41014-1 and 49216-1, involving loading machines, including draglines and power shovels, for use in the mining industry and tar sands operations. Parts provisions also work to the company's disadvantage in respect of non-referred tariff items 49101-1 and 49217-1. The firm notes, with approval, that in the case of goods admissible under tariff item 49103-1, parts are classifiable in accordance with their own made-in-Canada status under either item 49104-1 ("made" goods) or 49105-1 ("not made" goods). The company feels that the wire rope which it produces for mining/oilfield use should be similarly protected or provided for as under dutiable item 40113-1 ("wire rope and strand, n.o.p....") Alterations to the relationships between parts and finished goods, however, appear to be outside the scope of this reference.

POSSIBLE NEW ITEM RELATING TO GENERAL-PURPOSE MACHINERY AND APPARATUS

In the course of reviewing the commodity classes found to be relevant to the tariff items in Groups 1 and 2 of Phase I of this reference, the Board's staff noted the recurrence of various classes relating to what might be described as "general purpose goods", i.e. products that are probably not end-use specific. In such a case, a compressor, for example, is entered under one item when for a specific end use; when for another specific end use, a virtually identical compressor would be classified under a totally different item, at either the same or some other rate of duty.

The raison d'être for the classification of general-purpose goods under provisions in the mining machinery and oilfield equipment schedules varies somewhat from item to item. Certain of the items make specific reference to general-purpose goods as follows:

41012-1 Ex: conveyors.

41013-1 and 41014-1: air engines; pumps, vacuum pumps, fans, blowers or compressors.

41022-1 and 41023-1: fans, blowers or compressors, of iron or steel.

49201-1 and 49202-1: chemical injection pumps; chokes, beans and flow controllers [types of valve?].

In relation to the following tariff items such general-purpose goods can enter either as "machinery" or "apparatus", or as "parts" of products:

41013-1, 41014-1, 41021-1, 41022-1, 41023-1, 41026-1, 41027-1, 41031-1, 41032-1, 49104-1, 49105-1, 49210-1, 49211-1, 49215-1, 49216-1. In the case of items 41001-1 and 41002-1, they can enter only as "parts".

Classification of these general-purpose products as parts presents a special problem. With the exception of items 49104-1 and 49105-1, parts are classified, not on the basis of their own made-in-Canada status, but rather on that of the goods of which they form a part. Thus, the made-in-Canada status of parts is not directly relevant to the reference except in the case of tariff items 49104-1 and 49105-1 (which also cover, respectively, "made" and "not made" parts of the goods covered by tariff item 49103-1, an item not referred to the Board).

The following are examples of classes of goods with broad applications that enter as "machinery" or "apparatus", and/or as "parts" under a number of the referred items: valves, boilers, burners, engines of all kinds, turbines, electric motors, speed changers, gears, pumps, compressors, heat exchangers, generators.

Public reaction is sought in relation to the following issues:

- (a) the envisaged creation in relation to the pertinent end uses of an item or items encompassing certain general-purpose machinery and apparatus;
- (b) the form to be taken by such an item or items;
- (c) whether any of the aforementioned goods and/or end uses should be excluded;
- (d) whether any other goods might be considered for inclusion.

The staff sees the following advantages in the creation of such an item or items:

- (i) avoidance of duplication of eo nomine listings;
- (ii) ease of classification.

The following disadvantages are also apparent:

- (i) not all tariff items in the mining machinery and oil equipment schedules are susceptible of having these goods extracted from them, as not all are included in the present reference;
- (ii) not all the parent items have the same bound rate, leading to possible rate difficulties;
- (iii) the relationship between "parts" and "goods" may be altered in certain cases.

Comments on these points are also invited.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL

SPECIAL PURPOSE PLANT MACHINERY
AND MISCELLANEOUS GOODS I

DECEMBER, 1981

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TARIFF ITEM 19755-1

Existing Tariff Provisions

This item provides for:

Paper or fibreboard, decorated or not, of a kind not produced in Canada, for use only in the manufacture of goods described in headings 93901 to 93905

Free	Free	25 p.c.	Free	Free
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Free entry under the M.F.N. Tariff is bound under GATT.

The item provides for paper or fibreboard material used in making laminated plastic sheets and other shapes. Also allowed entry under this item is a product described as "release paper" used in the production of polyurethane foam, as well as a type of paper used in manufacturing meat casings. It will be noted that under this item goods are to be "of a kind" not produced in Canada. The term "kind" has generally been interpreted very narrowly by Revenue Canada; for a product to be excluded as being "of a kind" made, there would have to be a virtually identical Canadian product. It would therefore be possible for a product entered under this item to be "of a class produced" but "of a kind not produced" in Canada.

The average annual value of goods imported under item 19755-1 in 1978-80 was \$16.8 million.

Products excluded from tariff item 19755-1 because they are considered "made", or are like products imported for other uses, would, in the absence of any other relevant end-use item, generally be dutiable under various items for which the final MTN bound rates are 6.5 p.c., 9.2 p.c. and 10.2 p.c., with the latter two rates being more relevant. It should also be noted that the goods covered by item 19755-1, being materials for use in Canadian manufactures, are susceptible to treatment under Section 273 of the Customs Act.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings relating to goods entering under tariff item 19755-1.

(b) Commodity Classes

The following listing, corresponding to Table 4 of Background No. 4 sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Paper or fibreboard, decorated or not, for use in the manufacture of goods described in headings 93901 to 93905	
352-99-20	Paper, saturating base, for laminates, uncut	Not Made
354-40-80	Paper, kraft, impregnating, for laminates	Not Made
359-75-10	Paper, printed or impregnated for laminates	Not Made

Tariff Proposals

Union Carbide Canada Limited presented the only brief in regard to this item. Union Carbide imports under item 19755-1 a fibrous base stock paper (known as "Dexter paper") for use in the manufacture of meat casings. The firm recommends no change be made in the duty-free status of the goods under review.

Staff Appraisal

1. According to the information which has become available, there is no domestic production of the goods covered by the three commodity classes specified above as entering under tariff item 19755-1.

2. This would suggest retention of the item with its current nomenclature, except for the clause "of a kind not produced in Canada", with a M.F.N. rate of Free.

3. However, inasmuch as there may be other classes of goods covered by the nomenclature of this item which are "made" (concerning which the Board seeks information), item 19755-1 might be re-drafted on the basis of the descriptions of the three "not made" classes, with provision also being made for the fibrous base stock paper of concern to Union Carbide Canada Limited.

TARIFF ITEM 28105-1

Fire-brick, n.o.p., of a class or kind not made in Canada,
for use exclusively in the construction or repair of a
furnace, kiln, or other equipment of a manufacturing
establishment

Free	Free	15 p.c.	Free	Free
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When this item was scheduled for hearing, the Refractories Association of Canada drew the Board's attention to representations it had made to the Department of Finance with a view to obtaining a complete revision of the tariff provisions for fire-brick and for refractory specialties, i.e. products such as ramming mixes, gunning mixes and castables, used in situ in conjunction with, or substitution for, fire-brick.

After consultations, it was agreed with the Department of Finance that the Tariff Board would consider the entire package put forward by the Association and submit a report thereon at the earliest possible date.

Accordingly, an interim report on Reference No. 157, entitled Tariff Items Covering Goods Made/Not Made in Canada: Fire-brick and Related Products was tabled in the House of Commons on November 6, 1981. This report, containing the Board's recommendations in regard to tariff item 28105-1 and other related items, may be obtained from the Canadian Government Publishing Centre, Supply and Services, Ottawa, Ont., K1A 0S9, or from authorized bookstores. The catalogue number is FT4-157/1, and the price in Canada is \$2.50.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Customs Memorandum D50-64 contains a list of wide-flange beams which are "made in Canada" but notes that this information should be applied only for tariff classification purposes and has no "class or kind" connotation. However, Memorandum D51-1 covers the made-in-Canada status of the other shapes mentioned in item 38003-1.

(b) Commodity Classes

The following listing, based on information contained in Background No. 4, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items:

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Wide-flange beams more than ten inches but not more than eighteen inches in depth	
446-10-20	Beams, wide flange, c s, rolled, up to & including 12"	Made
446-10-23	Beams, wide flange, c s, rolled, 14" web, under 200 lb.	Made
446-10-25	Beams, wide flange, c s, rolled, 14" web, 200 lb & over	Made
446-10-27	Beams, wide flange, c s, rolled, 14" to 25"	Made
446-50-35	Beams, wide flange, hsla steel, 25" or less in depth	Made
	Angles more than six inches in length of either leg	
446-13-20	Angles, carbon steel, over 6", equal legs	Made
446-13-30	Angles, carbon steel, one leg over 6", unequal legs	Made
446-50-21	Angles, hsla steel, over 6", equal legs	Made
446-50-22	Angles, hsla steel, 1 leg over 6", unequal legs	Made
	Beams, including wide-flange beams, more than eighteen inches in depth	
446-07-20	Beams, wide flange, c s, rolled, over 25" depth, less than 200 lb/ft:	
	Welded	Made
	Other	Not Made
446-07-30	Beams, wide flange, c s, rolled, over 25" depth, 200 lb/ft & over:	
	Welded	Made
	Other	Not Made
446-10-27	Beams, wide flange, c s, rolled, over 14" to 25" inclusive	Made
446-15-20	Beams, I, american standard, c s, over 6" depth	Made
446-15-30	Beams/columns, H, other than wide flange, c s, over 6"	Made

446-50-33	Beams, wide flange, hsla steel, over 25" in depth of web: Welded Other	Made Not Made
446-50-35	Beams, wide flange, hsla steel, 25" or less in depth	Made
Channels more than fifteen inches in depth		
446-11-20	Channels, american standard, carbon steel, over 6" depth	Made
446-11-30	Channels, car/ship building, carbon steel, over 6" depth	Not Made
446-11-40	Channels, miscellaneous, carbon steel, over 6" depth	Made
446-50-52	Channels, miscellaneous, hsla steel, over 6"	Made
446-50-53	Channels, american standard, hsla steel, over 6"	Made
Zees more than six inches in depth of any leg		
416-15-50	Zees, cs, over 6" depth of any leg	Uncertain*
446-50-70	Zees, hsla steel, over 6" depth of any leg	Uncertain*

* Indicates a class added on the basis of 1979-80 import data, regarding the status of which information is required.

Tariff Proposals

The Algoma Steel Corporation, Limited was the only party to present a brief in respect of items 38002-1 and 38003-1. The company initially proposed that the items be amended to reflect an eo nomine listing of products not made in Canada. However, this approach was subsequently altered in a letter to the Board dated February 25, 1981, in which the company proposes:

(i) deletion of the two items so that the goods (which would then be classified under either item 38001-1 or item 38001-2) would be dutiable at the agreed-upon MTN rates;

(ii) in recognition that the above proposal would have the result of increasing the overall level of protection by moving hitherto duty-free goods into dutiable classifications (i.e. into items 38001-1 and 38001-2), the firm "would reluctantly accept" a slight reduction in the duty rates applicable to the latter items.

Staff Appraisal

1. A listing of products "of a class or kind not made in Canada" would not have the same coverage as the existing items, which can encompass "made" goods when they are not currently available. The present administration of the pertinent items suggests that some "availability" provision might be the most suitable replacement.

2. The second proposal by The Algoma Steel Corporation, Limited would require some modification of the rates under existing items 38001-1 and 38001-2, if the overall level of protection in relation to "the relevant product categories" were not to be increased. Such modification might adversely affect producers whose views have not been heard as the two aforementioned items were not under review by the Board.

TARIFF ITEM 41305-1

Existing Tariff Provisions

The present text of this item is as follows:

Machinery and apparatus, of a class or kind not made in Canada, and parts thereof, for preparing, manufacturing, testing or finishing yarns, cordage, and fabrics made from textile fibres or from paper, imported for use exclusively by manufacturers and scholastic or charitable institutions in such processes only

Free	Free	10 p.c.	Free	Free
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Free entry under the M.F.N. Tariff is bound under GATT.

This is an all-embracing item for "not made" textile machinery and apparatus used by the parties prescribed in the item in the manner prescribed. This requires that the machines or apparatus be used on the textile fibres or paper in producing yarns, cordage or fabrics, and excludes goods used for purposes of installation, maintenance or servicing, or at stages of manufacture beyond the fabric level. Control equipment is excluded unless mounted on the machines.

It will be noted that parts of goods classified under the item fall here regardless of their own made-in-Canada status, unless they qualify for entry under item 41310-1 as "materials for use in the manufacture of goods specified in tariff item 41305-1". The rates under this item are the same as those under item 41305-1, with the M.F.N. rate also bound at Free. The existence of item 41310-1 implies that there is some Canadian production of the "not made" goods of item 41305-1, perhaps either: (a) in insufficient quantities to qualify for a "made" ruling; or (b) in the form of the repair or reconstruction of imported equipment.

The average annual value of goods imported under tariff item 41305-1 in 1978-80 was \$95.4 million. It is understood that the larger part of these imports were of apparatus and parts, rather than machinery. Much of the machinery was apparently of used equipment discarded by mills in the United States.

Prior to January 1, 1980, textile machinery and apparatus excluded from item 41305-1 would have been classified under tariff item 42700-1, if considered to be "machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing", and thus would have been subject to the Machinery Duty Remission Program.

In the MTN, unrestricted free entry was provided under new item 42700-6 for a long list of machines together with their accessories, attachments, control equipment and tools, and parts. This item embraces:

Textile industry machines, namely:
bleaching and dyeing machines,
industrial sewing machines,
knitting machines,
spinning and related machines,
weaving machines, including Jacquard
machines and Dobby looms.

All of the foregoing to include, subject to tariff item 42700-3, accessories, attachments, control equipment including jacquards and tools for use therewith; parts of the foregoing

Free	Free	35 p.c.	Free	Free
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Tariff item 42700-3 provides for:

Buckets, digging teeth, cutting edges and parts thereof for use with the goods enumerated in tariff item 42700-6

1/1/81	2.5 p.c.	13.6 p.c.	35 p.c.	2.5 p.c.	8.5 p.c.
1/1/82		12.8 p.c.			9.2 p.c.
1/1/87		9.2 p.c.			9.2 p.c.

It must be noted, however, that the preamble to the 42700 series reads, in part, "Machines, n.o.p. ..."; there is no n.o.p. provision attached to item 41305-1. Accordingly, the latter item would take precedence over item 42700-6 provided that the machinery was for the end uses described in item 41305-1, and of a class or kind not made in Canada.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Customs Memorandum D51-5 contains made-in-Canada rulings in relation to a range of textile machinery and apparatus. All the listed products, when ruled not made in Canada, and imported for the end uses set forth in the item, would fall under item 41305-1. When ruled made, and imported by textile manufacturers, all the listed goods would be covered by item 42700-6 and retain free entry; this item would also apply if item 41305-1 ceased to exist. When ruled made, or if item 41305-1 ceased to exist, imports by scholastic or charitable institutions, would, if mechanical in nature, fall under the machinery schedule, usually under item 42700-1, with a bound rate of 9.2 p.c., but subject to the Machinery Duty Remission Program. Other imports, if not qualifying for free entry under tariff item 69605-1, would be dutiable according to material or nature, usually with a bound rate of 10.2 p.c. These classifications are set forth in the right-hand column below.

	<u>Published Ruling</u>	<u>Alternative Tariff Classification</u> (a)
Sinkers, sliders, plain dividers, split dividers, jacks of all kinds, and knock-over bits, of all sizes and gauges, for knitting machines of all kinds	Not Made	According to material
Hand looms	Made	In machinery schedule
Loopers of all kinds up to and including 16 points to the inch	Not Made	In machinery schedule (mechanical goods) or according to material (other goods)
Lug straps made of plastic or rubber or rubberized fabric for use on textile looms	Not Made	According to material
Lug straps, other	Made	According to material
Leather pickers of all kinds, except rawhide	Made	According to material
Check straps, picker straps and all other leather strapping used on looms	Made	According to material
Leather aprons and tapes, for condensers, gill boxes, and all similar so called aprons of leather used in the textile industry	Made	According to material
Picker sticks of wood for textile looms	Not Made	According to material
Dobby harness cords for use on textile looms	Not Made	According to composition
All-metal fully soldered reeds for looms	Made	According to material
Bobbin boards, quill boards and cone boards	Made	According to material
Textile beams of metal for use in the knitting, weaving and tire cord industries	Not Made	According to material
Cylinders and dials for use on circular knitting machines	Not Made	According to material
Dye springs, for use in dyeing textile yarns	Not Made	According to material
Piece goods dyeing machines, also known as Dye Becks, Dye Winches, Dye Kettles or Dye Vats, capable of handling plush fabrics, carpets, rugs and other similar materials	Made	In machinery schedule (mechanical goods) or according to material (other goods)
Tenter textile air dryers	Made	In machinery schedule
Print textile air dryers	Made	In machinery schedule

Textile polishing or glossing machines, also referred to as textile electrifying machines, used in finishing pile and napped fabrics	Made	In machinery or electrical apparatus schedule
Portable electric cloth cutting machines	Not Made	In machinery schedule

(a) When imported by scholastic or charitable institutions and not qualifying for entry under item 69605-1.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 4, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item 41305-1.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus for preparing yarns, cordage, and fabrics made from textile fibres or from paper	
527-29-16 Beaming machines, textile spinning	Not Made
527-29-17 Quilling machines, textile spinning	Not Made
527-29-20 Spinning machines, textile/spinning frames	Not Made
527-29-22 Crimping machines, textile spinning	Not Made
527-29-24 Texturing machines, textile spinning	Not Made*
527-29-26 Spinning machines, textile, man-made fibre, filament, extrusion	Not Made
527-29-27 Spinning machines, textile, man-made fibre, turbo-converter	Not Made
527-29-28 Spinning & related machinery, textile, nes, parts of	Not Made
527-29-29 Spinning & related machinery, textile, nes	Not Made
527-29-43 Spooling machines, textile	Not Made
527-29-45 Twisting machines, textile	Not Made
527-29-46 Warping machines, textile	Not Made
527-29-51 Winding machines, textile, drum type	Not Made
527-29-52 Winding machines, textile, precision type	Not Made
527-29-55 Winding machines, textile, automatic spoolers	Not Made
527-29-56 Winding machines, textile, travelling spindle winders	Not Made
527-29-57 Winding machines, textile, uniconer automatic cone winders	Not Made
527-29-62 Winding machines, textile, skein winders	Not Made
527-29-65 Slasher machines, textile	Not Made
527-29-88 Winding & related machinery, textile, nes, parts of	Not Made
527-29-39 Winding & related machinery, textile, nes	Not Made
527-99-34 Cleaning machine, textile fibres	Not Made
527-99-36 Winding machines, lap, textile	Not Made
527-99-37 Drawing machines/frames, textile	Not Made
527-99-43 Washing/scouring machines, textile fibres	Not Made
527-99-44 Carbonizing machines, textile fibres	Not Made
527-99-45 Carding machines, textile	Not Made
527-99-48 Fibre preparation machinery/equipment, textile industry, parts of	Not Made
527-99-49 Fibre preparation machinery/equipment, textile industry, nes	Not Made

527-99-51	Bobbins, textile machines	Not Made
527-99-88	Textile industries machinery/equipment, nes, parts of	Not Made
527-99-89	Textile industries machinery/equipment, nes Squeezing padds Other	Made* Not Made

Machinery and apparatus for manufacturing yarns,
cordage, and fabrics made from textile fibres
or from paper

527-32-21	Looms, textile, jacquard	Not Made
527-32-22	Hooks, jacquard	Not Made
527-32-41	Looms, textile, circular	Not Made
527-32-43	Looms, textile, projectile, sulzer type	Not Made
527-32-46	Looms, textile, rapier type	Not Made
527-32-50	Looms, textile, narrow fabric	Not Made
527-32-52	Looms, textile, pile fabric	Not Made
527-32-56	Looms, textile, dobby type	Not Made
527-32-60	Looms, textile, shuttleless, air or water jet	Not Made
527-32-88	Weaving machinery, textile, nes, parts of	Not Made
527-32-90	Weaving machinery, textile, nes	Not Made
527-36-20	Needles, bearded, knitting machine	Not Made
527-36-40	Needles, springbeard, knitting machine	Not Made
527-40-24	Knitting machines, circular hosiery	Not Made
527-40-29	Knitting machines, textile, circular type, nes	Not Made
527-40-39	Knitting machines, textile, flat type, nes	Not Made
527-40-41	Knitting machines, textile, tricot warp knit	Not Made
527-40-42	Knitting machines, textile, raschel warp knit	Not Made
527-40-71	Embroidery machines, textile	Not Made
527-40-73	Knitting machines, jacquard	Not Made
527-40-88	Knitting machines, textile, nes, parts of	Not Made
527-40-89	Knitting machines, textile, nes	Not Made
527-99-51	Bobbins, textile machines	Not Made
527-99-56	Cordage making machines, textile	Not Made
527-99-71	Braiding machines, textile	Not Made
527-99-88	Textile industries machinery/equipment, nes, parts of	Not Made
527-99-89	Textile industries machinery/equipment, nes	Not Made

Machinery and apparatus for testing yarns, cordage,
and fabrics made from textile fibres or from paper

Uncertain*

Machinery and apparatus for finishing yarns,
cordage, and fabrics made from textile fibres or
from paper

527-29-24	Texturing machines, textile spinning	Not Made*
527-56-21	Bleaching machinery, textile	Made
527-56-28	Bleaching machinery, textile, nes, parts of	Not Made
527-56-33	Printing machines, block, textile printing	Not Made*
527-56-38	Printing machines, textile, nes, parts of	Not Made
527-56-39	Printing machines, textile, nes	Not Made
527-56-43	Napping machines, textile finishing	Not Made
527-56-46	Shearing machines, textile finishing	Not Made
527-56-75	Tentering machines, textile finishing	Not Made
527-56-78	Dyeing machinery, textile, nes, parts of	Made
527-56-79	Dyeing machinery, textile, nes	Made
527-56-88	Finishing machinery, textile, nes, parts of	Not Made
527-56-89	Finishing machinery, textile, nes Inspection tables, "A" frame trucks, winders, continuous ranges, non-stitching machines, finishing padds Other	Made* Not Made*
527-99-70	Lapping machines, textile	Not Made
527-99-73	Drying machine, textile industry	Not Made*

527-99-88	Textile industries machinery/equipment, nes, parts of	Not Made
527-99-89	Textile industries machinery/equipment, nes	Made*
	Squeezing padds	Not Made
	Other	

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Commodity classes 527-36-90, 527-60-89, 527-99-73 (carpet drying machine, only), 527-06-30, 527-06-88, 527-99-55, 703-48-21 and 709-49-41 originally listed in Table 4, have been deleted as being not relevant to item 41305-1. In the case of commodity classes 527-29-24 ("texturing machines, textile spinning"), 527-56-33 ("printing machines, block, textile") and 527-56-89 ("finishing machinery textile, nes" - other), the made-in-Canada designation has been changed to "not made" in order to reflect the fact that goods formerly reported as "made" are not yet in production. Additions on the "made" side make allowance for the product range of Canadian Textile Machinery Limited, which began operations at Granby, Que., in October, 1980.

In the opinion of the Canadian Textiles Institute there is practically no Canadian production of textile machinery and apparatus for the uses described in tariff item 41305-1.

Tariff Proposals

The Canadian Textiles Institute, represented by Corporation House Ltd., submitted the only brief in connection with this tariff item. The Institute recommends that provision be made for the free entry of all textile machinery and apparatus n.o.p., and parts thereof, with an eo nomine listing of such goods as are found to be made in Canada. Although not stated in the recommendation, it is assumed the listed goods would be subject to duty (say 9.2 p.c.).

Staff Appraisal

1. Canadian Textile Machinery Limited has indicated to the Board's staff that it possesses the technology to build, on order, an expanded range of relevant machinery, including e.g. high speed beamers, warp sizing machines and automatic decatizing machines.

2. The products of Canadian Textile Machinery Limited are primarily designed for the textile industry. Even if they should be ruled "made", they would, insofar as the Board's staff has been able to determine, almost all fall under item 42700-6 (free entry bound under the MTN).

3. If item 41305-1 were to be eliminated, many of the imports would continue to enjoy free entry under item 42700-6. A further group would fall under item 42700-1 and become subject to the Machinery Duty Remission Program if not available in Canada. Certain imports of not available goods by qualified institutions would continue to enjoy free entry under item 69605-1. There is a possibility, however, that certain goods now admissible free of duty under item 41305-1 would become dutiable.

4. Retention of the provisions of item 41305-1 without a "not made in Canada" qualification would render the textile machinery provisions of item 42700-6 redundant. Further, a division of item 41305-1 into two parts, listing certain "made" goods and making them dutiable, and allowing all other machinery and apparatus to enter free, might be held to impinge on the binding under item 42700-6. If the "made" list were constructed to exclude goods covered by item 42700-6, the latter item would again be redundant, as all the products of item 42700-6 would fall under the "free" part of revised item 41305-1.

TARIFF ITEM 41700-1

Existing Tariff Provisions

Machinery and apparatus and complete parts thereof
and structural iron and steel, of a class or
kind not made in Canada, when imported for use
exclusively in the construction or equipment of
factories for the manufacture of sugar from
beetroot, or for receiving sugar beets, under
regulations prescribed by the Minister

Free Free Free Free Free

It will be noted that all goods falling under the item - machinery, and apparatus, and complete parts thereof, and structural iron and steel, - must themselves be of a class or kind not made in Canada. Thus, the parts stand on their own feet insofar as made-in-Canada status is concerned. Free entry under the M.F.N. Tariff is bound under GATT.

Although narrowly circumscribed in terms of possible usage, the item is considered to be all-embracing and to apply to all "not made" articles (other than office furniture and equipment), and complete parts thereof, used in the construction or equipment of beet sugar factories. No regulations have been prescribed by the Minister. However, until such time as a new plant is built, imports will necessarily be limited to replacement goods and repair parts. Complete parts are held to be only such parts as require no further processing (e.g. machining) after importation.

The item has been little used in recent years, probably because no new beet sugar factory has been constructed for more than a decade. Imports under the item averaged to \$740,000 in 1978-80.

There is no equivalent tariff provision for goods of a class or kind made in Canada. In the absence of the item, no distinction would be drawn between "made" and "not made" goods. Machines and complete parts thereof would be subject to the Machinery Duty Remission Program under tariff item 42700-1. Structural iron and steel would fall under the appropriate items in the iron and steel schedule; in almost all cases, only such iron or steel as would be required for the construction of a new sugar mill or refinery would qualify for entry under item 41700-1. Apparatus (and complete parts thereof) not qualifying as accessories or attachments for machines would be dutiable according to the material or nature of the goods.

Provisional Made-In-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to item 41700-1.

(b) Commodity Classes

The following listing, based upon the information contained in Background No. 4, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machinery and apparatus and complete parts thereof and structural iron and steel for use exclusively in the construction or equipment of factories for the manufacture of sugar from beet-root, or for receiving sugar beets	
528-27-47 Refining machinery, sugar (grinder-classifiers and classifiers)	Made
528-27-47 Refining machinery, sugar (except grinder-classifiers and classifiers)	Not Made
528-27-29 Sugar beet factory equipment, nes	Uncertain*
528-27-88 Sugar industry machinery, nes, parts of	Uncertain*
528-27-89 Sugar industry machinery, nes	Uncertain*

* Indicates a class regarding which further information is required.

Commodity class 528-27-89 ("sugar industry machinery, nes") has been added to the above listing on the basis of 1979-80 import data. However, both this class and commodity class 528-27-88 may apply principally to machinery and parts for use in refining sugar from cane, rather than from beets.

Outstanding Questions

1. What classes, or kinds of "not made" goods might, in fact, enter under the item?

2. Is the sugar-refining machinery indicated above as being made in Canada suitable for use in the production of beet sugar, or is it used solely for cane sugar?

Tariff Proposals

No proposals respecting this item were received by the Board, either from producers of sugar from beets or from domestic manufacturers, if any, of machinery and apparatus etc., used in the production of such sugar.

Staff Appraisal

1. To attempt an eo nomine listing of all the many diverse goods which might conceivably enter under this item would probably be an unrewarding exercise.

2. Insofar as item 41700-1 would appear to have limited future utility, and has not been the subject of any submission before the Board, its elimination, allowing the pertinent goods to fall elsewhere in the Customs Tariff, might be contemplated.

3. On the other hand, in view of the small likely impact on Canadian production, consideration might be given to retention of the existing item, free of duty, without the clause "of a class or kind not made in Canada".

TARIFF ITEM 42000-1

Existing Tariff Provisions

Machines and parts thereof, of a class or kind
not made in Canada, for use exclusively in the
tanning or embossing of leather

Free Free 10 p.c. Free Free

Free entry under the M.F.N. Tariff is bound under GATT. It should be noted that machines capable of performing additional functions other than tanning or embossing are excluded from the coverage of the item. To be entered under the item, parts must themselves be of a class or kind not made in Canada. Consequently, "made" parts of "not made" machines would be excluded from the item and classified elsewhere in the Customs Tariff.

In 1978-80 average annual imports under the item amounted to \$2.6 million.

As there is no equivalent item for "made" goods, these would generally fall under tariff item 42700-1 and be subject to the Machinery Duty Remission Program. Certain parts would be dutiable elsewhere in the Customs Tariff if held to be more specifically described elsewhere than as parts of machines. The same considerations would also apply to "not made" goods in the absence of the item.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published rulings affecting goods imported under item 42000-1.

(b) Commodity Classes

The following listing is based upon the information contained in Background No. 4, Table 4, which sets out the provisional made-in-Canada status of goods falling under item 42000-1.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Machines and parts thereof for use exclusively in the tanning or embossing of leather	

529-27-22	Fleshing machines, leather	Not Made
529-27-31	Staking machines, leather	Not Made
529-27-32	Shaving machines, leather	Not Made
529-27-35	Splitting machines, leather	Not Made
529-27-43	Embossing machines, leather	Not Made
529-27-51	Finishing machines, leather	Not Made
529-27-59	Band knife machines, nes, leather	Not Made
529-27-88	Leather tanning/working machinery/ equipment, nes, parts of	Not Made
529-27-89	Leather tanning/working industries machinery/equipment, nes	Not Made

(c) Other Information

In addition, a more detailed product listing was obtained from The Tanners' Association of Canada and is presented below in the form received. An asterisk (added by the staff of the Board) indicates machinery, apparatus or parts made in Canada, as reported by the Association:

WET OPERATIONS

- 1) TRIMMING AND SORTING
Hide Sorting and Siding Machinery and Apparatus
- 2) SOAKING
*Soak Drums and Tanks
*Hide Mixers, Machinery and Apparatus
- 3) FLESHING
Fleshing Machinery and Apparatus
Rendering and By-Product Machinery and Apparatus
- 4) UNHAIRING
Unhairing Machinery and Apparatus
Hair Washing and Drying Machinery and Apparatus
Effluent Control and Treatment Machinery and Apparatus
- 5) BATING, 6) PICKLING, 7) TANNING
*Tanning Drums and Vessels and Apparatus
Process and Flow Control Apparatus
Effluent Control and Treatment Machinery and Apparatus
Chemical Recovery Machinery and Apparatus
- 8) WRINGING
Wringing Machinery and Apparatus
Sammying Machinery and Apparatus
Sorting Machinery and Apparatus
- 9) SPLITTING AND SHAVING
Splitting Machinery and Apparatus
Shaving Machinery and Apparatus
Split Trimming Machinery and Apparatus
- 10) RETANNING, COLOURING, AND FATLIQUORING
*Retan Drums and Vessels and Apparatus
Process and Flow Control Apparatus
Effluent Control and Treatment Machinery and Apparatus
- 11) SETTING OUT
Setting Out Machinery and Apparatus
Sammying Machinery and Apparatus

- 12) DRYING
 - Paste Drying Machinery and Apparatus
 - Vacuum Drying Machinery and Apparatus
 - Toggle Drying Machinery and Apparatus
 - Tunnel Drying Machinery and Apparatus
 - Catalytic Drying Machinery and Apparatus
 - Hot Milling Drums and Apparatus
- 13) CONDITIONING
 - Skin Washing Machinery and Apparatus
- 14) STAKING
 - Staking Machinery and Apparatus
 - *Dry Milling Machinery and Apparatus
 - Trimming and Sorting Machinery and Apparatus
- 15) BUFFING
 - Buffing Machinery and Apparatus
 - Polishing Machinery and Apparatus
 - Stacking Machinery and Apparatus
- 16) FINISHING
 - *Spray Equipment, Machinery and Apparatus
 - Seasoning (Swabbing) Machinery and Apparatus
 - *Spray Control and Exhaust Equipment and Apparatus
 - Flow Coating Machinery and Apparatus
 - Roller Coating (Tipping) Machinery and Apparatus
 - Impregnating Machinery and Apparatus
 - Hot Stuffing Machinery and Apparatus
- 17) PLATING
 - Plating and Embossing Machinery and Apparatus
 - Ironing Machinery and Apparatus
 - Printing Machinery and Apparatus
 - Glazing Machinery and Apparatus
- 18) MEASURING
 - Measuring Machinery and Apparatus
 - Packing and Strapping Machinery and Apparatus
- 19) GRADING
 - Grading Machinery and Apparatus

Tariff Proposals

The Tanners' Association of Canada presented the only brief in respect of tariff item 42000-1. It is the Association's proposal that the item be amended to read as follows:

Machinery and apparatus, and parts thereof, for use
exclusively in the tanning, drying or finishing of leather.

This, it is claimed, would bring the nomenclature of the item into line with current customs administration.

The Association's brief notes that tanning machinery and apparatus are almost always highly specialized and, as such, require specially tooled or patented parts. Thus, it is argued that "injury or market loss to domestic parts producers is highly improbable".

Staff Appraisal

1. It is not clear whether the words "for use exclusively in the tanning or embossing of leather", which are contained in tariff item 42000-1, cover all the production processes and goods named in the product listing supplied by The Tanners' Association of Canada.

2. The nomenclature proposed by The Tanners' Association of Canada would seemingly significantly extend the coverage of item 42000-1, thus widening the scope of the reference. As now worded, the item reads, in part, "machines and parts thereof, of a class or kind not made in Canada ..." whereas the Association's proposal refers to "machinery and apparatus, and parts thereof ...". While, for tariff purposes, the words "machines" and "machinery" are synonymous (vide section 2, subsection (4) of the Customs Tariff), "apparatus" suggests a different and broader genre of goods.

3. Deletion of the word "apparatus" from the proposed item would exclude some of the products, e.g. tanning drums and vessels, indicated as being "made", thereby maintaining their present classification. However, even with this deletion, the item would still provide free entry for some "made" goods, e.g. hide mixers and spray machinery.

4. While the available evidence clearly indicates that very little leather processing machinery is produced in Canada, the proposed wording would remove all protection, most particularly from any parts now manufactured for "not made" machines.

5. However, in view of the limited domestic production of the pertinent goods, a possible solution might be to retain the present wording of the item without the qualifying clause "of a class or kind not made in Canada".

TARIFF ITEM 42100-1

Existing Tariff Provisions

Machinery and complete parts thereof, of a class or kind not made in Canada, viz.: blungers, vibrating sifters or lawns, pugging machines, slip pumps, wet or dry pans, clay disintegrators, ball mills, clay wheels, pull-downs, batting-out machines, when imported by manufacturers of clay products for use exclusively in the manufacture of clay products, in their own factories, under regulations prescribed by the Minister

1/1/81	Free	7 p.c.	10 p.c.	Free	5.5 p.c.
1/1/82		6.8 p.c.			
1/1/87		5.5 p.c.			

This item is limited to certain named machines, when of a class or kind not made in Canada, used in the manufacture of clay products, and also covers complete parts of the machines when the parts themselves are "not made". Incomplete parts and "made" parts of "not made" machines would be dutiable according to their own material or nature, usually at a bound rate of 10.2 p.c. The M.F.N. rate applying to the item was bound in the Tokyo Round at 5.5 p.c.

Machines of a class or kind made in Canada, and their parts, would fall under item 42700-1, with a bound rate of 9.2 p.c. In the absence of item 42100-1, the aforementioned item would also apply to "not made" goods, and free entry would be provided for those held to be "not available" in Canada, as well as for all their parts.

Imports under item 42100-1 in recent years have been comparatively small, averaging \$351,000 per annum in 1978-80.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are apparently no published rulings with regard to the made-in-Canada status of the goods covered by item 42100-1.

(b) Commodity Classes

The following listing, based upon the information contained in Background No. 4, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Vibrating sifters or lawns and slip pumps	
529-16-19 Brick making machinery, nes	Made
529-16-39 Ceramic products manufacturing machinery, nes	Made
529-16-89 Concrete/clay products industry machinery/ equipment, nes	Made
Ball mills	
529-16-21 Mills, ball, clay working	Not Made
Clay wheels	
529-16-31 Wheels, potters	Made*
Blungers, pugging machines, wet or dry pans, clay disintegrators, pull-downs, batting- out machines	
529-16-19 Brick making machinery, nes (except vibrating sifters or lawns and slip pumps)	Not Made*
529-16-24 Mixers, clay machinery	Not Made*
529-16-25 Presses, brick moulding	Not Made*
529-16-29 Tile making machinery, nes	Not Made*
529-16-39 Ceramic products manufacturing machinery, nes (except vibrating sifters or lawns and slip pumps)	Not Made*
529-16-88 Concrete/clay products industry machinery/ equipment, parts of	Uncertain*
529-16-89 Concrete/clay products industry machinery/ equipment, nes (except vibrating sifters or lawns and slip pumps)	Not Made*

* Indicates a class regarding which further information is required.

It is assumed that potters wheels and clay wheels are identical goods; confirmation is required. It is not known to what extent, if at all, the blungers, pugging machines etc. named in the nomenclature are subsumed in the commodity classes listed thereunder, nor whether the "not made" designation attached to these commodity classes correctly represents the status of the aforementioned named goods.

Tariff Proposals

No tariff proposals were received by the Board from either the users or domestic manufacturers of the goods enumerated in item 42100-1.

Staff Appraisal

1. In view of the comparatively low value of imports under this item, and the fact that few of the pertinent goods are apparently of a class or kind made in Canada, it may be inferred that domestic demand for the goods in question is small and that the end-use preference provided under the item is of no great practical consequence.

2. Deletion of the item would result in the named goods falling under item 42700-1, at a bound rate of 9.2 p.c., with provision for duty remission for those goods held to be "not available" in Canada, as well as all their parts. However, under the Machinery Duty Remission Program, the first \$500 in value of goods covered by any one application remains dutiable. Consequently, using the 1987 rates of duty, the following comparisons can be made with respect to the duty payable on goods entering under item 42100-1 as "not made", on the one hand, and under item 42700-1 as "not available", on the other:

Value for duty:\$	300	500	836	1,000	1,500
Duty payable 42100-1:\$	16.50	27.50	45.98	55.00	82.50
Duty payable 42700-1:\$	27.60	46.00	46.00	46.00	46.00

Thus, except in the case of small shipments, it would be more advantageous for importers to enter the goods under item 42700-1 than under any tariff provision where a duty rate of 5.5 p.c., or more, is applicable. The bound rate for "not made" goods under item 42100-1, at 5.5 p.c., is virtually the same as the maximum average rate (5.25 p.c.) targeted for both "available" and "not available" goods under the Machinery Program.

3. As item 42100-1 provides only for named products, for a specified purpose and subject to a "not made" proviso, any revised nomenclature would require to be on an eo nomine basis if the scope of the present item is not to be greatly extended. Pertinent "made" goods are specifically named and could easily be eliminated from the item.

TARIFF ITEM 42600-1

Existing Tariff Provisions

Ozone generators or ozone airifiers and parts thereof, of
a class or kind not made in Canada

Free 5 p.c. 10 p.c. Free 5 p.c.

The item is not specifically bound under GATT.

Ozone is a form of oxygen with the chemical formula O_3 . Ozone generators are used for wastewater treatment and for the purification of drinking water with ozone replacing chlorine as a purifying agent. Ozone airifiers are much smaller than the generators and are generally used in the home as air purifiers, or are used for laboratory purposes.

In the absence of this item, or if ruled to be of a class or kind made in Canada, these goods, and complete parts thereof, would become dutiable as electrical apparatus under item 44524-1 at a bound M.F.N. rate (in 1987) of 10.2 p.c. Even if ozone generators and ozone airifiers were to be categorized as "made-in-Canada" goods, "not made" parts could continue to enter under item 42600-1, assuming its retention.

Imports under the item have been comparatively small in recent years, averaging \$332,000 per annum in 1978-80.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

It is understood that there are no published made-in-Canada rulings with respect to the aforementioned goods, but that, in accordance with a recent policy decision by customs administration, ozone generators with a capacity in excess of 25 pounds per day are now considered to be of a class or kind made in Canada.

(b) Commodity Classes

Only one commodity class, i.e. 529-36-51, ("generators, ozone") was listed in Table 4 of Background No. 4. This class was shown as being made in Canada.

According to a survey recently carried out by National Revenue, domestically-manufactured ozone generators generally have a very high Canadian content. It is not known whether there are any significant parts of "made" generators that are themselves of a class or kind not made in Canada.

Tariff Proposals

Only one firm, Union Carbide Canada Limited, commented on this item. Union Carbide, a domestic manufacturer of ozone generators with a capacity in excess of 25 pounds per day, expressed satisfaction with the present exclusion of the aforementioned generators from entry under tariff item 42600-1.

Staff Appraisal

1. Ozone generators with a capacity in excess of 25 pounds per day are now admissible under item 44524-1 as electrical apparatus. Thus, as presently administered, item 42600-1 has very limited application, being confined to generators with a capacity of 25 pounds per day or less and ozone airifiers.

2. It is to be noted that item 42600-1, which is not bound specifically under GATT, bears a M.F.N. rate of 5 p.c.; if the item were to be deleted, all ozone generators and airifiers would be subject, under item 44524-1, to a M.F.N. duty of 10.2 p.c. by January 1, 1987.

TARIFF ITEM 44125-1

Existing Tariff Provisions

The present wording of this item is as follows:

Guns and rifles of a class or kind not made in Canada;
parts thereof

1/1/81	Free	7 p.c.	30 p.c.	Free	5.5 p.c.
1/1/82		6.8 p.c.			
1/1/87		5.5 p.c.			

The M.F.N. rate of 5.5 p.c. in 1987 was bound in the MTN. As the parts follow the goods, the made in Canada status of parts is not a pertinent issue. Imports under the item averaged \$28.7 million per annum in 1978-80.

This tariff provision can best be understood in the context of the item applicable to "made" goods, namely 44100-1, which, until amended in the October 28, 1980 Budget, read as follows:

Guns, rifles, including air guns and air rifles not being toys; muskets, cannons, pistols, revolvers, or other firearms, n.o.p.; cartridge cases, cartridges, primers, percussion caps, wads or other ammunition, n.o.p.; bayonets, swords, fencing foils and masks; gun or pistol covers or cases, game bags, loading tools and cartridge belts of any material

1/1/81	10 p.c.	17.8 p.c.	30 p.c.	10 p.c.	11.3 p.c.
1/1/82		16.7 p.c.		Free ^(a)	
1/1/87		11.3 p.c.			

(a) Introduced in the Budget of November 12, 1981.

In its report on Reference No. 156: Antiques, Collectibles and Hobby Equipment (1979), the Board recommended that item 44125-1 be amended to cover "guns, rifles and muskets, of a class or kind not made in Canada; parts thereof". However, in the 1980 Budget, the provision for "muskets" was deleted from item 44100-1, and a new item, numbered 44101-1, was introduced - viz:

Muskets and parts thereof

1/1/81	Free	5.5 p.c.	30 p.c.	Free	3 p.c.
1/1/82					5.5 p.c.

The rates under this item are those that will apply under item 44125-1 in 1987.

As administered at the date of reference, the coverage of item 44100-1 was much broader than that of item 44125-1. Because pistols, revolvers and other firearms are named in 44100-1 and not in the "not made" item, they were considered, even with a n.o.p. provision, to be excluded from item 44125-1, even when of a class or kind not made in Canada. However, in its decision, dated February 16, 1981, on Appeal No. 1432 (Donald J. Norris v. The Deputy Minister of National Revenue for Customs and Excise), the Tariff Board declared that a pistol of a class or kind not made in Canada is admissible under item 44125-1. The decision has been appealed to the Federal Court of Canada. Pending the result of the appeal, the Department has continued to limit the coverage of item 44125-1 to long guns, basically shotguns and rifles. At the time of writing, the Federal Court has not yet scheduled a hearing of this case.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Departmental Memorandum D51-23, dated December 17, 1980, indicates that the following firearms are of a class or kind not made in Canada:

- (i) shot guns, single barrel, single shot, in 12, 16, 20, 28 and 410 gauge (accordingly, all shot guns are now of a class or kind not made in Canada);
- (ii) target rifles, .22 caliber, rimfire, single shot bolt action and bolt action repeaters.

In addition, Memorandum D51-23, December 17, 1980, provides that rifles (other than target rifles), .22 caliber, rimfire, single shot bolt action, bolt action repeaters and auto-loaders (semi-automatics) are considered to be of a class or kind made in Canada.

(b) Commodity Classes

The following listing, modified on the basis of the recent Departmental Memorandum D51-23 (noted above), is based on Background No. 4, Table 4. The list sets out the provisional made-in-Canada status of goods held to fall under tariff item 44125-1 at the date of reference.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
Guns and rifles		
930-01-20	Shotguns, bolt-action	Made*
930-01-30	Shotguns, pump/slide-action	Made*
930-01-40	Shotguns, semi-automatic	Made*
930-01-50	Shotguns, single shot	Not Made
930-01-60	Shotguns, double-barrel (over & under)	Not Made
930-01-70	Shotguns, double-barrel (side-by-side)	Not Made

930-06-20	Rifles, centrefire, bolt-action, repeater	Not Made
930-06-30	Rifles, centrefire, lever-action, repeater	Not Made
930-06-40	Rifles, centrefire, pump/slide-action	Not Made
930-06-60	Rifles, centrefire, semi-automatic	Not Made
930-06-70	Rifles, centrefire, single shot	Not Made
930-07-20	Rifles, rimfire, bolt-action repeater:	
	Target rifles	Not Made*
	Other, .22 calibre	Made
	Others	Not Made
930-07-30	Rifles, rimfire, lever-action repeater	Not Made
930-07-40	Rifles, rimfire, pump/slide-action:	
	Target rifles	Not Made*
	Other, .22 calibre	Made
	Others	Not Made
930-07-70	Rifles, rimfire, semi-automatic:	
	Target rifles	Not Made*
	Other, .22 calibre	Made
	Others	Not Made
930-07-80	Rifles, rimfire, single shot:	
	Target rifles	Not Made*
	Other, .22 calibre	Made
	Others	Not Made
930-16-20	Rifle-shotgun combinations	Not Made
930-16-70	Longarms, air/gas, except toys	Not Made
930-16-80	Guns, harpoon	Not Made
930-16-89	Firearms, nes	Uncertain*

* Indicates a change from Table 4 or a commodity class regarding which further information is required.

In Table 4, classes 930-01-20, 930-01-30 and 930-01-40 were shown as applicable to "made" goods; Departmental Memorandum D51-23 notes that all shotguns are of a class or kind not made in Canada. Further information is required. In the case of commodity classes 930-07-20, 930-07-40, 930-07-70 and 930-07-80, the distinctive "not made" status now accorded to target rifles is recognized.

Commodity class 930-16-25 covering black powder longarms, originally appearing in Table 4, has been removed. This commodity now falls under item 44101-1 ("muskets and parts thereof") and is not a part of Reference No. 157.

Outstanding Questions

1. Although commodity class 930-16-89 ("firearms, nes") was originally listed in Table 4 as being "not made", interested parties, if any, will be afforded another opportunity to present comments on the possible inclusion thereunder of any relevant "made" goods.

2. What consideration must be given to the decision regarding pistols in Appeal No. 1432, now or after a decision is handed down by the higher court?

3. Are the shotguns in classes 930-01-20 (bolt-action), 930-01-30 (pump/slide-action) or 930-01-40 (semi-automatic) in fact "made" or "not made" in Canada?

Tariff Proposals

No representations were received from the public with regard to tariff item 44125-1.

Staff Appraisal

1. Having received no representations to the contrary, it would appear that the provisional made-in-Canada status, above, should be confirmed, subject to any additional evidence.

2. Because parts at present follow the goods, any new item should continue to provide for all parts of goods classified thereunder regardless of whether or not the parts are themselves "made in Canada".

3. The eventual resolution of Appeal No. 1432 might be disregarded on the ground that, as administered at the date of reference, the item did not include anything but long guns.

TARIFF ITEMS 47825-1 AND 47826-1

Existing Tariff Provisions

Prior to the Budget of November 12, 1981, the text of these two items, which share a common preamble, was as follows:

Invalid chairs, commode chairs, walkers and all other aids to locomotion, with or without wheels; motive power and wheel assemblies therefor; patterning devices; toilet, bath and shower seats; all specially designed for the disabled; accessories and attachments for all the foregoing;

47825-1 Of a class or kind made in Canada; parts thereof

1/1/81	Free	10 p.c.	15 p.c.	Free	6.1 p.c.
1/1/82		10 p.c.			9.2 p.c.
1/1/87		9.2 p.c.			9.2 p.c.

47826-1 Of a class or kind not made in Canada; parts thereof

Free	Free	Free	Free	Free
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In the Budget of 1981, the following clause was added to the item, between the words "assemblies therefor", and "patterning devices":

selector control devices designed to enable disabled persons to select, energize or control various household, industrial and office equipment but not including the equipment controlled by these devices;

These two items cover a range of goods for the use of the disabled, with a distinction being drawn on the basis of the made-in-Canada status of the finished products. Parts of "made" goods are classified under the "made" item even if they themselves are "not made". Similarly, parts of "not made" goods are always classified under the "not made" item. Under the "not made" item, free entry applies under all Tariffs, and a M.F.N. rate of Free was bound under the MTN. Under the "made" item, goods are free of duty under the B.P. and G.P. Tariffs and dutiable at 15 p.c. under the General Tariff. The M.F.N. rate is now 10 p.c., but it has been bound under the MTN at 9.2 p.c.

In 1978-80 the average annual value of imports under items 47825-1 and 47826-1 amounted to \$3.4 million and \$1.7 million respectively.

In the absence of these two items, those products which could be considered as machinery would presumably fall under machinery items with a bound rate of 9.2 p.c., but be subject to the Machinery Duty Remission Program for "not available" goods. Other products would fall under a range of items with bound rates of between 9.2 p.c. and 15 p.c., with no special provision for "not made" or "not available" goods.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings covering the goods entering under these items.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 4, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Invalid chairs, commode chairs, walkers and all other aids to locomotion, with or without wheels	
512-24-21	Elevator, passenger type, electric operated	Made*
512-24-22	Elevator, passenger type, hydraulic operated	Made
512-24-90	Elevator, passenger type, nes (except elevators, stairway type)	Made*
512-24-90	Elevator, passenger type, nes (elevators, stairway type)	Not Made*
885-71-20	Wheelchairs, invalid, includes powered	Made
	Motive power and wheel assemblies	
503-69-82	Gearmotors, electrical	Not Made
	Selector control devices	Uncertain*
	Patterning devices	Uncertain*
	Toilet, bath and shower seats	
671-64-30	Toilet seats, other than plastic, except lids	Made
	Accessories and attachments	
672-99-39	Bathroom accessories, nes	Uncertain*
849-99-60	Cushions, except bed pillows	Made

* Indicates a change from Table 4 as a result of additional information obtained from knowledgeable sources.

Commodity classes 512-24-21 and 672-99-39 have been added on the basis of 1979-80 import data.

Tariff Proposals

No representations were received with respect to tariff items 47825-1 and 47826-1.

Staff Appraisal

1. Notwithstanding substantial importations, it would appear that the aforementioned tariff provisions are of little concern, in that neither Canadian producers, importers nor users have indicated an interest in the outcome of this reference.

2. The purpose of the present tariff provisions might be retained by means of eo nomine descriptions effected on the basis of "made" and "not made" categories of goods, to the extent that this can be established.

3. Alternatively, deletion of items 47825-1 and 47826-1 might be undertaken, thereby allowing many of the more expensive goods, e.g. various powered aids to locomotion designed for the disabled, to qualify for entry under the Machinery Duty Remission Program if not available from domestic production.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL
ENGINES AND PARTS

DECEMBER, 1981

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TARIFF ITEM 42865-1

Existing Tariff Provisions

Diesel and semi-diesel engines;
Diesel dual fuel engines;
L.P.G. engines;
Gasoline internal combustion engines;
Reciprocating natural gas engines;
Rotary natural gas engines having a brake horsepower
of up to 3,000;
When of a class or kind not made in Canada; parts
thereof; all of the foregoing for use in the manufacture
of electricity generating sets classifiable under tariff
item 42701-1.

Free Free 30 p.c. Free Free

This is a temporary tariff item first introduced in 1968 and now scheduled to expire on June 30, 1982. While the actual list of goods covered by the item has been altered from time to time, it has always been applicable to "not made" engines, and parts thereof, for use in the manufacture of electricity generating sets. As parts of "not made" engines are classified here regardless of their own made-in-Canada status, the made-in-Canada status of the parts is not a pertinent issue.

Imports under item 42865-1 in 1978-80 averaged \$22.9 million per annum.

In the absence of classification under this or other end-use items, or when held to be of class or kind made in Canada, the diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which has a bound MFN rate of 9.2 p.c. Under similar circumstances, all the other engines covered by the item would fall under item 42805-2, with a bound rate of 9.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of diesel engines is treated in Customs Memorandum D51-15-1, 17/7/78, file 86550 - viz:

Diesel or semi-diesel engines having a continuous rated brake horsepower of 500 to 5,000 BHP, inclusive, together with a piston displacement of 500 cubic inches per cylinder and above, inclusive, have been considered to be of a class or kind made in Canada effective August 17, 1978.

Notes:

1. Diesel or semi-diesel engines having a continuous rated brake horsepower within the range of 500 BHP to 4,000 BHP, inclusive, together with a piston displacement of from 600 cubic inches per cylinder, to 700 cubic inches per cylinder, inclusive, are already ruled to be of a class or kind made in Canada, effective May 28, 1970.

2. Diesel or semi-diesel engines having a piston displacement of less than 500 cubic inches, per cylinder, are considered to be of a class or kind not made in Canada.

There do not appear to be any published rulings relating to the other relevant engines.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Engines, for use in the manufacture of electricity generating sets, namely:	
Diesel and semi-diesel engines	
Diesel dual fuel engines	
502-18-29 Engines, semi-diesel, nes	Not Made
502-18-39 Engines, diesel, nes, 100 brake horsepower & under	Not Made
502-18-49 Engines, diesel, nes, over 100, to 200 brake horsepower	Not Made
502-18-59 Engines, diesel, nes, over 200, to 500 brake horsepower	Not Made
502-18-69 Engines, diesel, nes, over 500, to 1,000 brake horsepower	
-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
-With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-79 Engines, diesel, nes, over 1,000, to 1,500 brake horsepower	
-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
-With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-89 Engines, diesel, nes, over 1,500 brake horsepower	
-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
-With a piston displacement of more than 500 cubic inches per cylinder, and less than 5,000 brake horsepower	Made*
-With a piston displacement of more than 500 cubic inches per cylinder, and more than 5,000 brake horsepower	Not Made*

Gasoline internal combustion engines

502-23-29	Engines, gasoline, air-cooled, nes, 6 brake horsepower & under	Not Made
502-23-59	Engines, gasoline, air-cooled, nes, over 6, to 11 brake horsepower	Not Made
502-23-89	Engines, gasoline, air-cooled, nes, over 11 brake horsepower	Not Made
502-25-29	Engines, gasoline, nes, 6 brake horsepower & under	Not Made
502-25-39	Engines, gasoline, nes, over 6 brake horsepower, to 11 brake horsepower	Not Made
502-25-49	Engines, gasoline, nes, over 11 brake horsepower, to 50 brake horsepower	Not Made
502-25-89	Engines, gasoline, nes, over 50 brake horsepower	Not Made

L.P.G. engines

Reciprocating natural gas engines

Rotary natural gas engines having a brake horsepower of up to 3000

502-99-32	Engines, natural gas fired, general purpose	Uncertain*
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* Indicates a change from Table 4 and/or a class description changed to accord with that in the published ruling.

In Table 4, the only goods categorized as "made" are in class 502-18-89 ("engines, diesel, nes, over 1,500 brake horsepower") with an upper limit of 4,500 bhp, together with a piston displacement of 673 cubic inches per cylinder.

In its submission, Bombardier Inc., indicates that it manufactures diesel engines of from 700 to 4,500 continuous rated brake horsepower, with a piston displacement of 668 cubic inches, capable of producing 2,850 kilowatts at 900 r.p.m.

GEC Diesels Inc. would (a) define diesel and semi-diesel engines produced in Canada, as having a continuous rated brake horsepower within the range 1,500 to 5,000 brake horsepower inclusive, together with a piston displacement of between 650 and 850 cubic inches inclusive per cylinder; and (b) extend the list of "not made" products to include diesel engines designed and supplied for operation on heavy fuels having a viscosity in excess of 400 seconds Redwood No. One at 100° F.

Atlas Polar Company Limited submits that "the lower level of horsepower for consideration as a class or kind not made in Canada could be raised from 500 BHP to 1,700 BHP ... since the smallest Canadian-built Alco Diesel Engine [manufactured by Bombardier Inc.] is the 8-cylinder V-form version developing 1,820 BHP continuously".

General Motors of Canada Limited, Diesel Division, states: "To the best of our knowledge the largest diesel engine manufactured in Canada is a 16 cylinder unit capable of producing 2915 continuous brake horsepower at 900 RPM. As an electricity generating set component this unit produces 2100 kilowatts (KW) of continuous base load power at 60 CPS. This diesel engine cannot provide continuous base load power at 1200 RPM and at 720 RPM base load power is considerably reduced to 1675 KW."

As a matter of definition, General Motors submits that "diesel dual fuel engines can only be considered 'dual fuel' when they are capable of burning natural gas as the alternate to diesel fuel."

In Table 4, commodity class 502-99-32 ("engines, natural gas fired, general purpose") was reported as "not made". It is now understood that Rolls Royce of Canada Ltd. produces natural gas-fired jet engines over 8,000 bhp. However, the relevance of such goods to the tariff item under review is uncertain.

Ingersoll-Rand Canada Inc., indicates that at some future date it may decide to manufacture a rotary natural gas engine of less than 3,000 brake horsepower; however, it appears that the firm has not yet developed any definitive plans in this regard.

Tariff Proposals

Bombardier Inc., proposes:

- (i) except for the goods indicated in (ii) below, diesel and semi-diesel engines, diesel dual fuel engines, and parts thereof, should be subject to a M.F.N. duty of 9.2 p.c., with provision for remission based on non-availability in Canada;
- (ii) duty-free entry for diesel and semi-diesel engines having a continuous rated bhp of less than 500 and greater than 5,000, and having a piston displacement of below 500 cubic inches per cylinder;
- (iii) LPG engines, gasoline internal combustion engines, reciprocating natural gas engines, rotary natural gas engines, and parts thereof, should be subject to a M.F.N. duty of 9.2 p.c., with provision for remission based on non-availability.

General Motors of Canada Limited, Diesel Division, proposes:

- (i) ignoring end-use applications in respect of the tariff treatment of diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof;
- (ii) expanding duty-free entry to include all diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof (this and options (iii) and (iv) below, would encompass such engines when for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1);

- (iii) as a second choice, according duty-free entry to diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, for use in Canadian manufactures, and making other pertinent goods liable to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (iv) as a third choice, making diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, subject to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (v) if end use is retained in relation to the aforementioned category of goods, allowing duty-free entry under the M.F.N. Tariff to diesel, semi-diesel and diesel dual fuel engines with a piston displacement of 500 cubic inches per cylinder or less, and parts thereof, for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1;
- (vi) applying individual end-use considerations with respect to diesel engines over 500 cubic inch displacement per cylinder "to ensure Canadians, both consumers and manufacturers, are afforded a fair tariff treatment";
- (vii) providing duty-free entry under the M.F.N. Tariff for diesel, semi-diesel and diesel dual fuel engines with a piston displacement of 500 cubic inches per cylinder and over, producing 3,500 continuous brake horsepower and over at a synchronous speed of 600, 720, 900 or 1,200 RPM, and parts thereof, for use in the manufacture of electricity generating sets classifiable under tariff item 42701-1;
- (viii) imposing a M.F.N. duty of 9.2 p.c. on diesel, semi-diesel and diesel dual fuel engines for the use indicated, other than those specified in (v) and (vii) above.
- (ix) while the above recommendations deal strictly with diesel and semi-diesel engines and diesel dual fuel engines, the company would "have no objection to inclusion of any or all other types of engines, currently named under tariff item 42865-1, in a revised version of this item".

Cooper Energy Services Ltd., in the context of the Board's review of tariff items pertaining to oilfield and mining machinery and apparatus, proposes:

- (i) if the Board should recommend the continuation of the end-use items under consideration, heavy industrial power and compression machinery should be excluded therefrom and left to be classified under items in the 427 and 428 series, where they are now classified when for purposes other than specified in the end-use items under review;
- (ii) failing acceptance of this proposal, making all the pertinent goods dutiable with the possibility of the removal of duty by Order in Council, as is presently the case for goods covered by the chemicals schedule of the Customs Tariff;
- (iii) natural gas-fired jet engines over 8,000 bhp, produced by the company's associate, Rolls Royce of Canada Ltd., should not be "admissible at reduced rates of duty down to free".

Ingersoll-Rand Canada Inc., pleads for:

(i) a rationalization of the Customs Tariff insofar as engines are concerned, by extending the duty-remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

The Canadian Association of Oilwell Drilling Contractors (CAODC) has also indicated an interest in this item.

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of L.P.G. engines, reciprocating natural gas engines and rotary natural gas engines, it will be necessary to assign such goods for duty purposes on the basis of whatever data are presently available.

2. The provisional listing of gasoline internal combustion engines as being "not made in Canada" might be accepted.

3. While Ingersoll-Rand Canada Inc., may ultimately decide to manufacture a rotary natural gas engine of less than 3,000 brake horsepower, such engines should probably not be considered to be made in Canada until such time as production begins.

4. Bombardier Inc. produces diesel engines having a piston displacement of 668 cubic inches per cylinder, and continuous brake horsepower range of 700 to 4,500.

5. The contention of Atlas Polar Company Limited concerning the lower horsepower limit of diesel engines manufactured by Bombardier Inc. does not agree with information supplied by the latter company.

6. Since 1970, the Department of National Revenue has considered diesel engines within the range of 500 to 4,000 brake horsepower inclusive, together with a piston displacement of from 600 to 700 cubic inches per cylinder inclusive to be made in Canada, and hence excluded from tariff item 42865-1. In 1978 the bhp range was extended to 5,000 and the piston displacement specification modified to cover engines with a piston displacement of 500 cubic inches per cylinder and above. Engines with a piston displacement of less than 500 cubic inches were considered to be not made in Canada.

7. Insofar as diesel engines are concerned, item 42865-1 appears to have been administered to exclude from duty-free entry a larger range of engine specifications than is made in Canada.

8. Although GEC Diesels Inc., does not make any specific tariff recommendations, its definition of the range of diesel engines made in Canada, for use in an eo nomine nomenclature, is judged to be more accurate than that contained in Customs Memorandum D51-15.

9. Similarly, General Motors of Canada Limited, Diesel Division, is judged to have accurately represented the range of diesel engines not made in Canada, except for the proposed qualifying minimum of 3,500 brake horsepower (which Bombardier Inc., indicates should be 3,820) when for use in electricity generators.

10. Bombardier Inc., did not make a proposal covering the end use of this item only. Its general recommendation for diesel engines appears to go beyond the scope of the reference insofar as it would narrow the coverage of a number of non-referred items, especially 42815-1, 42816-1 and 42817-1, which are bound under GATT at a rate of 9.2 p.c.

11. With respect to the suggestions of GEC Diesels Inc., and General Motors of Canada Limited, Diesel Division, for defining the types of fuel burned by diesel engines and dual fuel engines, this does not appear to be necessary for the purpose of differentiating between engines made and not made in Canada.

12. The recommendation of Ingersoll-Rand Canada Inc., for rationalization of the tariff schedules pertaining to engines would affect a number of items which appear to be outside the terms of reference.

13. The proposal by Cooper Energy Services Ltd. for the exclusion of heavy industrial power machinery from any end-use tariff arrangement would, in the absence of a new provision for engines other than diesel, have the effect of placing such engines under item 42805-2, with a bound rate of 9.2 p.c.

14. The circumstances relating to the goods falling under the aforementioned tariff item do not appear sufficiently "special" as to warrant the application of "availability" criteria.

TARIFF ITEM 42875-1

Existing Tariff Provisions

Gasoline internal combustion, water-cooled engines, of types or sizes not made in Canada, for use in the manufacture of portable air compressors and transit concrete mixers

Free Free 30 p.c. Free Free

This is a temporary tariff item, created under the authority of Section 273 of the Customs Act, to cover certain types and sizes of engines imported for the stated purposes, originally created in 1970 and now scheduled to expire on June 30, 1982. The item is not bound under GATT.

In 1978-80 average annual imports under item 42875-1 were valued at approximately \$4,000.

The parent item, to which the goods would revert if the item should expire, is item 42805-2: "Engines and complete parts thereof, n.o.p.". Under this item, the MTN bound rate is 9.2 p.c. This same item would apply to any engines excluded from item 42875-1 as being of "types or sizes" made in Canada. Unlike the parent item, the referred item makes no provision for parts; consequently, parts for the goods of item 42875-1 would be dutiable according to their own nature, with complete parts falling under item 42805-2.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is not aware of any published rulings as to "types or sizes" of the pertinent goods "made" or "not made" in Canada.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Gasoline internal combustion, water-cooled engines, for use in the manufacture of portable air compressors and transit concrete mixers	

502-25-29	Engines, gas, nes, 6 brake horsepower & under	Not Made
502-25-39	Engines, gas, nes, over 6 brake horsepower, to 11 brake horsepower	Not Made
502-25-49	Engines, gas, nes, over 11 brake horsepower, to 50 brake horsepower	Not Made
502-25-89	Engines, gas, nes, 50 to 75 brake horsepower	Not Made*
502-25-89	Engines, gas, nes, over 75 brake horsepower	Made*

* Indicates a change from Table 4.

At the public hearing, General Motors of Canada Limited, Diesel Division, indicated that it produces gasoline internal combustion water-cooled engines of over 75 brake horsepower. It is understood that engines for portable air compressors and transit concrete mixers are below this horsepower.

Ingersoll-Rand Canada Inc., states that, to the best of its knowledge, there are no gasoline engines manufactured in Canada which can be used for the purposes described in item 42875-1.

Tariff Proposals

General Motors of Canada Limited, Diesel Division, proposes:

(i) allowing duty-free entry of gasoline internal combustion, water cooled engines of up to 75 continuous brake horsepower.

Ingersoll-Rand Canada Inc., proposes:

(i) retaining the item because it has built gasoline engine-driven air compressors in the past and may do so again in the future;

(ii) a rationalization of the Customs Tariff insofar as engines are concerned, by extending the duty-remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

Staff Appraisal

1. It is provisionally accepted that internal combustion, water cooled engines of over 75 horsepower are made in Canada, but that engines for use in the manufacture of portable air compressors and transit concrete mixers have less than 75 horsepower, and are not made in Canada.

2. Rationalization of the tariff schedules with respect to engines, along the lines proposed by Ingersoll-Rand Canada Inc., would affect a number of items which appear to be outside the terms of reference.

3. The circumstances relating to the goods falling under the aforementioned tariff item do not appear sufficiently "special" as to warrant the application of "availability" criteria.

4. Lack of use of this item might seem a cogent reason for its deletion, allowing the goods to fall elsewhere in the Customs Tariff.

5. Alternatively, the nomenclature of the item might be retained without the qualifying clause "of types or sizes not made in Canada".

TARIFF ITEM 42880-1 EX.

Existing Tariff Provisions

Diesel engines, of a class or kind not made in Canada;
Gasoline internal combustion engines, air-cooled, four
cycle, not greater than nine horsepower;
For use in the manufacture of plate type vibratory
compactors

Free Free 30 p.c. Free Free

Only the goods covered by the first part of the item are before the Board in this reference. The item is not bound under GATT.

This is a temporary tariff item, created under the authority of Section 273 of the Customs Act, to provide free entry (except under the General Tariff) for the goods named therein, when imported for the purpose stated in the item. It should be noted that the item makes no provision for parts, which would be classified according to their own nature or material, usually under one of the items providing generally for diesel engines. The item was first introduced in January 1973 and currently is scheduled to expire on June 30, 1982.

In 1978-80 average annual imports under this item (including both the referred and non-referred provisions) were valued at approximately \$15,000.

In the absence of classification under this or other end-use items, diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which has a bound MFN rate of 9.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada ruling on diesel engines is given in Customs Memorandum D51-15, reproduced under tariff item 42865-1 (see above).

(b) Commodity Classes

The following listing, based upon the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the referred extract of the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Diesel engines, for use in the manufacture of plate type vibratory compactors:	
502-18-39	Engines, diesel, nes, 100 brake horsepower & under	Not Made

Tariff Proposals

There is no specific tariff proposal concerning diesel engines for use in the manufacture of plate type vibratory compactors.

As part of its general submission, Bombardier Inc., proposes:

(i) duty-free entry for diesel and semi-diesel engines having a continuous rated bhp of less than 500 and greater than 5,000, and having a piston displacement of below 500 cubic inches per cylinder (it is understood that such a provision would encompass the diesel engines classifiable under tariff item 42880-1).

Likewise, as part of its general package of tariff proposals, General Motors of Canada Limited, Diesel Division, advocates:

(i) according duty-free entry (preferably without end-use restriction) to diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof (it is understood that such a provision would accommodate the diesel engines presently classifiable under tariff item 42880-1).

Ingersoll-Rand Canada Inc., proposes:

(i) a rationalization of the Customs Tariff insofar as engines are concerned, by extending the duty remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

Staff Appraisal

1. On the understanding that diesel engines for use in the manufacture of plate type vibratory compactors have less than 500 brake horsepower, they would be of a class or kind not made in Canada.

2. Bombardier Inc.'s general recommendation for diesel engines appears to go beyond the scope of the reference insofar as it would narrow the coverage of a number of non-referred items, especially 42815-1, 42816-1 and 42817-1, which are bound under GATT at a rate of 9.2 p.c.

3. Likewise, rationalization of the tariff schedules pertaining to engines, along the lines proposed by Ingersoll-Rand Canada Inc., or by General Motors of Canada Limited, Diesel Division, would affect a number of items which appear to be outside the terms of reference.

4. The circumstances relating to the goods falling under the aforementioned tariff provision do not appear sufficiently "special" as to warrant the application of "availability" criteria.

5. Since the products covered by the relevant tariff provision are not apparently made in Canada, the nomenclature of the provision might be retained without the qualifying clause "of a class or kind not made in Canada".

6. However, in view of the very low level of imports under this end-use tariff provision and the absence of representations pertaining directly thereto, there would appear to be no compelling reason for its retention, and the pertinent goods might be allowed to fall elsewhere in the Customs Tariff.

TARIFF ITEM 42885-1

Existing Tariff Provisions

Diesel engines, of a class or kind not made in Canada
for use in the manufacture of portable crushing plants,
portable screening plants or combination thereof

Free Free 30 p.c. Free Free

This is a temporary tariff item, created under the authority of Section 273 of the Customs Act, to provide free entry (except under the General Tariff) for the goods named therein, when imported for the purposes stated in the item. It should be noted that the item makes no provision for parts, which would be classified according to their own nature or material, usually under one of the items providing generally for diesel engines. The item was first introduced in January 1973 and currently is scheduled to expire on June 30, 1982. It is not bound under GATT.

In 1978-80 average annual imports under this item amounted to approximately \$40,000.

In the absence of classification under this or other end-use items, the diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which has a bound MFN rate of 9.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada ruling on diesel engines is given in Customs Memorandum D51-15, reproduced under item 42865-1 (see above).

(b) Commodity Classes

The following listing, based upon the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Diesel engines, for use in the manufacture of portable crushing plants, portable screening plants or combination thereof	

502-18-39	Engines, diesel, nes 100 brake horsepower & under	Not Made
502-18-49	Engines, diesel, nes, over 100, to 200 brake horsepower	Not Made
502-18-59	Engines, diesel, nes, over 200, to 500 brake horsepower	Not Made
502-18-69	Engines, diesel, nes, over 500, to 1,000 brake horsepower	
	-with a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-with a piston displacement of more than 500 cubic inches per cylinder	Made*

* Indicates a change from Table 4.

Commodity class 502-18-69 has been added on the basis of 1979-80 import data. Its relevance is uncertain; observations are invited.

Tariff Proposals

Except for General Motors of Canada Limited, Diesel Division, there are no specific tariff proposals concerning diesel engines for use in the manufacture of portable crushing plants, portable screening plants or combinations thereof.

General Motors of Canada Limited, Diesel Division, proposes:

- (i) ignoring end-use applications in respect of the tariff treatment of diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof;
- (ii) expanding duty-free entry to include all diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof (this and options (iii) and (iv) below, would encompass such engines when for use in the manufacture of portable crushing plants, portable screening plants or combination thereof);
- (iii) as a second choice, according duty-free entry to diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, for use in Canadian manufactures, and making other pertinent goods liable to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (iv) as a third choice, making diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, subject to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (v) if end use is retained in relation to the aforementioned category of goods, allowing duty-free entry under the M.F.N. Tariff to diesel engines with a piston displacement of 500 cubic inches per cylinder or less, for use in the manufacture of portable crushing plants, portable screening plants or combination thereof;

(vi) applying individual end-use considerations with respect to diesel engines over 500 cubic inch displacement per cylinder "to ensure Canadians, both consumers and manufacturers, are afforded a fair tariff treatment".

As part of its general submission, Bombardier Inc., proposes:

(i) duty-free entry for diesel and semi-diesel engines having a continuous rated bhp of less than 500 and greater than 5,000, and having a piston displacement of below 500 cubic inches per cylinder (it is understood that such a provision would encompass the goods classifiable under tariff item 42885-1).

Ingersoll-Rand Canada Inc., proposes:

(i) a rationalization of the Customs Tariff insofar as engines are concerned by extending the duty remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

Staff Appraisal

1. It is understood that diesel engines for use in the manufacture of portable crushing plants, portable screening plants or combination thereof are normally of less than 500 brake horsepower, and are of a class or kind not made in Canada.

2. The question arises as to whether diesel engines of more than 500 brake horsepower might be used for the purposes specified, and, if so, whether any of the products of Bombardier Inc., (or some other Canadian manufacturer) might be suitable.

3. The proposals of General Motors of Canada Limited, Diesel Division, and Ingersoll-Rand Canada Inc., to rationalize the tariff schedules pertaining to engines, would affect a number of items which appear to be outside the terms of reference.

4. Bombardier Inc.'s general recommendation for diesel engines appears to go beyond the scope of the reference insofar as it would narrow the coverage of a number of non-referred items, especially 42815-1, 42816-1 and 42817-1, which are bound under GATT at a rate of 9.2 p.c.

5. The circumstances relating to the goods falling under the aforementioned tariff item do not appear sufficiently "special" as to warrant the application of "availability" criteria.

6. Since the products covered by the item are not apparently made in Canada, the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

7. However, in view of the low level of imports under this end-use item, there would appear to be no compelling reason for its retention, and the pertinent goods might be allowed to fall elsewhere in the Customs Tariff.

TARIFF ITEM 43864-1 EX.

Existing Tariff Provisions

Unserviceable parts of internal combustion engines, commonly known as "cores", for remanufacturing in Canada, namely: electric starter motors, generators and alternators, 32 volts or less. Parts, of a class or kind not made in Canada, for use in the remanufacture of the foregoing electric starter motors, generators or alternators

Free	Free	27.5 p.c.	Free	Free
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Only the goods covered by the latter part of the item are before the Board in this reference. However, it is necessary to give the entire item to understand the context.

This is a temporary tariff item, created originally in 1978, and now scheduled to expire on June 30, 1982, designed to assist engine component rebuilders by giving them free entry (except under the General Tariff) for the "cores" to be rebuilt, and to "not made" parts for those "cores". The item is not itself bound under GATT.

A part imported under this item must be suitable for use on the particular motor, generator or alternator being rebuilt - i.e., it must often be a part of a "custom-built" component for a certain model of car. Consequently, the administration of the "not made" provision has tended to be based on availability of the specific required part rather than on the more usual criteria.

In 1978-80 average annual imports under this tariff item (including both the referred and non-referred provisions) were valued at \$5.7 million.

In the absence of this or any other appropriate end-use provision, or when of a class or kind made in Canada, these parts would generally fall under tariff item 43829-1, which has a GATT bound rate of 9.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is not aware of any Customs Memorandum covering the made-in-Canada status of the parts in question.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the referred extract of the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Parts for use in the remanufacture of unserviceable electric starter motors, generators and alternators, 32 volts or less, commonly known as "cores"	
689-95-49	Starter-motors, internal combustion engine, parts of, nes	Not Made*
689-95-59	Generators, internal combustion engine, parts of, nes	Not Made*
689-95-89	Electrical equipment, internal combustion engine, parts of, nes	Not Made*
503-75-39	Armatures & rotors, electric motors nes	Uncertain*
503-79-50	Protectors, for electric motors	Uncertain*

* Indicates a change from Table 4.

In Table 4, each of the first three above-listed classes was divided to show "spark plugs" as "made" and all other goods as "not made". However, spark plugs are not parts of "cores". Commodity classes 503-75-39 and 503-79-50 have been added to the listing on the basis of 1979-80 import data. Their relevance and made-in-Canada status are uncertain; observations thereon are invited.

Tariff Proposals

Douglas J. Bowering Limited proposes:

- (i) the removal of the end-use requirement, with continued duty free entry;
- (ii) in this connection, establishing a new duty-free tariff item with the following nomenclature:

Parts for the manufacture of the foregoing electric starter motors, generators or alternators.

Automotive Parts Rebuilders' Association proposes:

- (i) retaining the status quo;
- (ii) as a second choice, removal of the qualifying clause "of a class or kind not made in Canada".

Cantire Products Limited also proposes:

- (i) retaining the status quo.

Staff Appraisal

1. The proposal by Douglas J. Bowering Limited, to remove the end-use provision appears to go beyond the scope of the terms of this inquiry.

2. Since there does not appear to be any manufacture in Canada of parts for the remanufacture of "cores", the qualifying clause "of a class or kind not made in Canada" may be thought unnecessary.

TARIFF ITEM 44025-1

Existing Tariff Provisions

Diesel and semi-diesel engines, of a class or kind not made
in Canada, and complete parts thereof, for use exclusi-
vely in the construction or equipment of ships or vessels

Free Free Free Free Free

This item provides for the named goods, and complete parts thereof, when imported for the purposes stated in the item. It should be noted that the classification of "complete parts" of the engines covered by this item is controlled by the made-in-Canada status of the engines themselves. Parts not considered to be "complete", i.e. those requiring some further processing, would be dutiable according to their own nature, usually as parts under one of the items providing generally for diesel engines. Free entry under the M.F.N. Tariff is bound under GATT.

Imports of goods under item 44025-1 in 1978-80 averaged \$73.0 million per annum.

In the absence of classification under this or other end-use items, the diesel engines would be classified under item 42815-1, 42816-1 or 42817-1, each of which have a bound rate of 9.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada ruling on diesel engines is given in Customs Memorandum D51-15, reproduced under tariff item 42865-1 (see above).

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Diesel and semi-diesel engines for use exclusively in the construction or equipment of ships or vessels	

502-18-29	Engines, semi-diesel, nes	Not Made*
502-18-39	Engines, diesel, nes, 100 brake horsepower & under	Not Made*
502-18-49	Engines, diesel, nes, over 100, to 200 brake horsepower	Not Made*
502-18-59	Engines, diesel, nes, over 200, to 500 brake horsepower	Not Made*
502-18-69	Engines, diesel, nes, over 500, to 1,000 brake horsepower	
	-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-79	Engines, diesel, nes, over 1,000, to 1,500 brake horsepower	
	-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-With a piston displacement of more than 500 cubic inches per cylinder	Made*
502-18-89	Engines, diesel, nes, over 1,500 brake horsepower	
	-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-With a piston displacement of more than 500 cubic inches per cylinder, and less than 5,000 brake horsepower	Made*
	-With a piston displacement of more than 500 cubic inches per cylinder, and more than 5,000 brake horsepower	Not Made*
592-27-20	Engines, diesel & semi-diesel, marine, boats	
	-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-With a brake horsepower of more than 500 and less than 5,000, and with a piston displacement of more than 500 cubic inches per cylinder	Made*
	-With a brake horsepower of less than 500 and more than 5,000, and with a piston displacement of more than 500 cubic inches per cylinder	Not Made*
592-27-21	Engines, diesel & semi-diesel, marine, ships	
	-With a piston displacement of less than 500 cubic inches per cylinder	Not Made*
	-With a brake horsepower of more than 500 and less than 5,000, and with a piston displacement of more than 500 cubic inches per cylinder	Made*
	-With a brake horsepower of less than 500 and more than 5,000, and with a piston displacement of more than 500 cubic inches per cylinder	Not Made*

* Indicates a change from Table 4 and/or a class which would be held "made" in accordance with the published ruling.

Classes 502-18-29 to 502-18-89 were not included in Table 4 because it was not appreciated that diesel and semi-diesel engines other than marine engines might be used in the construction or equipment of ships or vessels.

In the case of 592-27-20 and 592-27-21, the specifications of the goods have been altered from the specifications indicated in Table 4 in order to conform with those in the published ruling.

In its submissions, Bombardier Inc., indicates that it manufactures diesel engines from 700 to 4,500 continuous rated brake horsepower with a piston displacement of 668 cubic inches.

GEC Diesels Inc. would (a) define diesel and semi-diesel engines produced in Canada, as having a continuous rated brake horsepower within the range 1,500 to 5,000 brake horsepower inclusive, together with a piston displacement of between 650 and 850 cubic inches inclusive per cylinder; and (b) extend the list of "not made" products to include diesel engines designed and supplied for operation on heavy fuels having a viscosity in excess of 400 seconds Redwood No. One at 100° F.

Atlas Polar Company Limited submits that "the lower level of horsepower for consideration as a class or kind not made in Canada could be raised from 500 BHP to 1,700 BHP ... since the smallest Canadian-built Alco Diesel Engine [manufactured by Bombardier Inc.] is the 8-cylinder V-form version developing 1,820 BHP continuously".

General Motors of Canada Limited, Diesel Division, states: "To the best of our knowledge the largest diesel engine manufactured in Canada is a 16 cylinder unit capable of producing 2915 continuous brake horsepower at 900 RPM".

Tariff Proposals

Bombardier Inc., proposes:

- (i) except for the goods indicated in (ii) below, diesel and semi-diesel engines, diesel dual fuel engines, and parts thereof, should be subject to a M.F.N. duty of 9.2 p.c., with provision for remission based on non-availability in Canada;
- (ii) duty-free entry for diesel and semi-diesel engines having a continuous rated bhp of less than 500 and greater than 5,000, and having a piston displacement of below 500 cubic inches per cylinder.

General Motors of Canada Limited, Diesel Division, proposes:

- (i) ignoring end-use applications in respect of the tariff treatment of diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof;
- (ii) expanding duty-free entry to include all diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof (this and options (iii) and (iv) below, would encompass any such engines when for use exclusively in the construction or equipment of ships and vessels);

- (iii) as a second choice, according duty-free entry to diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, for use in Canadian manufactures, and making other pertinent goods liable to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (iv) as a third choice, making diesel and semi-diesel engines of 500 cubic inch displacement per cylinder or less, and complete parts thereof, subject to a M.F.N. duty of 9.2 p.c., with provision for remission when not available in Canada;
- (v) if end use is retained in relation to the aforementioned category of goods, allowing duty-free entry under the M.F.N. Tariff to diesel and semi-diesel engines with a piston displacement of 500 cubic inches per cylinder or less, and parts thereof, for use exclusively in the construction or equipment of ships or vessels;
- (vi) applying individual end-use considerations with respect to diesel engines over 500 cubic inch displacement per cylinder "to ensure Canadians, both consumers and manufacturers, are afforded a fair tariff treatment";
- (vii) imposing a M.F.N. duty of 9.2 p.c. on diesel and semi-diesel engines of 1,000 to 4,500 continuous brake horsepower, together with a piston displacement of 500 cubic inches per cylinder and above, and complete parts thereof, for use exclusively in the construction or equipment of ships and vessels;
- (viii) providing duty-free entry under the M.F.N. Tariff for diesel and semi-diesel engines for the use indicated, other than those specified in (vii) above.

Ingersoll-Rand Canada Inc., pleads for:

- (i) a rationalization of the Customs Tariff insofar as engines are concerned, by extending the duty-remission scheme as presently administered under the Machinery Program to cover engines and parts for all end uses except automotive (the term "engine" is understood by the firm to have a very broad meaning, as illustrated by the definition: "a machine for converting any of various forms of energy into mechanical force and motion").

Staff Appraisal

1. Bombardier Inc., produces diesel engines having a piston displacement of 608 cubic inches per cylinder, and continuous brake horsepower range of 700 to 4,500.

2. Since 1970, the Department of National Revenue has considered diesel engines within the range of 500 to 4,000 brake horsepower inclusive, together with a piston displacement of from 600 to 700 cubic inches per cylinder inclusive to be made in Canada, and hence excluded from tariff item 44025-1. In 1978 the bhp range was extended to 5,000 and the piston displacement

specification modified to cover engines with a piston displacement of 500 cubic inches per cylinder and above. Engines with a piston displacement of less than 500 cubic inches were considered to be not made in Canada.

3. Insofar as diesel engines are concerned, item 44025-1 appears to have been administered to exclude from duty-free entry a larger range of engine specifications than is made in Canada.

4. Although GEC Diesels Inc., does not make any specific tariff recommendations, its definition of the range of diesel engines made in Canada, for use in an eo nomine nomenclature, is judged to be more accurate than that contained in Customs Memorandum D51-15.

5. Similarly, General Motors of Canada Limited, Diesel Division, is judged to have more accurately represented the range of diesel engines not made in Canada.

6. Bombardier Inc., did not make a specific proposal for this item. Its general recommendation for diesel engines appears to go beyond the scope of the reference insofar as it would narrow the coverage of a number of non-referred tariff items, especially 42815-1, 42816-1 and 42817-1, which are bound under GATT at a rate of 9.2 p.c.

7. With respect to the suggestions of GEC Diesels Inc., for defining the types of fuel burned by diesel engines, this does not appear to be necessary for the purpose of differentiating between engines made and not made in Canada.

8. The recommendation of Ingersoll-Rand Canada Inc., for rationalization of the tariff schedules pertaining to engines would affect a number of items which appear to be outside the terms of reference.

9. The contention of Atlas Polar Company Limited concerning the lower horsepower limit of diesel engines manufactured by Bombardier Inc. does not agree with information supplied by the latter company.

10. The circumstances relating to the goods falling under the aforementioned tariff item do not appear sufficiently "special" as to warrant the application of "availability" criteria.

TARIFF ITEM 44210-1

Existing Tariff Provisions

Rotors, blade diaphragms, spindle discs, shafts and blades, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use by turbine manufacturers in the repair or remanufacture of of gas or steam turbines and parts thereof entitled to entry under tariff items 42805-1, 42805-2 and 42805-3

Free Free Free Free Free

This item parallels item 44205-1, which allows free entry for "not made" metallic materials imported for use in the manufacture of the goods covered by items 42805-1, 42805-2 and 42805-3, as well as other items.

In 1980, the wording of item 44210-1 was altered by the deletion of the phrase "by turbine manufacturers", and of reference to tariff items 42805-1 and 42805-2. Item 44210-1 is bound under the MTN.

In 1978-80 average annual imports under item 44210-1 were valued at \$3.5 million.

In the absence of this item, it would appear that the components, if "complete parts", i.e. ready for use in the condition as imported, would be dutiable under tariff item 42805-3. If the components were not "complete", but required further processing, each would be dutiable according to its own nature or material, usually under an item with a bound M.F.N. rate of 10.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings as to the made-in-Canada status of any of the goods listed in item 44210-1.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 5, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

Commodity Class	Provisional Made-in-Canada Status
Rotors, blade diaphragms, spindle discs, shafts and blades, wholly or in chief part of metal, when imported for use (by turbine manufacturers) in the repair or remanufacture of gas or steam turbines and parts thereof entitled to entry under tariff item(s) 42805-1, 42805-2, and 42805-3	
502-40-88 Turbines, gas, general purpose type, parts: <u>Rotors</u> finished, machined, assembled, balanced, bladed (or unbladed): for single-shaft type gas turbines, each rotor containing air axial compressor and turbine functions - for capacity to 50,000 hp - for capacity over 50,000 hp for 2-shaft type gas turbines the one rotor containing the axial air compressor and its drive turbine function, the other rotor containing the output power turbine function - with ratings of 50,000 hp or less - with ratings of over 50,000 hp <u>Blade Diaphragms</u> namely: axial air compressor blade diaphragms associated with the air compressor function of gas turbine rotors, and turbine blade diaphragms associated with the turbine function of single-shaft and 2-shaft gas turbines and constructed as fabrications of separate parts or finished machined single castings for gas turbines - with ratings of 50,000 hp or less - with ratings of over 50,000 hp <u>Spindle Discs</u> and <u>Shafts</u> for gas turbines - with ratings of 50,000 hp or less - with ratings of over 50,000 hp <u>Blades</u>	Made Not Made Made Not made Made Not made Made Not Made Not Made
502-09-88 Turbine, steam, stationary type, parts: <u>Rotors, Blade Diaphragms and Spindle Discs</u> for single-stage steam turbines, having a disc of base diameter of 16", 20" or 25" - with ratings to 5,000 hp - with ratings of over 5,000 hp <u>Rotors, Blade Diaphragms and Spindle Discs</u> for multi-stage steam turbines having discs of base diameter to 32" - with ratings to 80,000 hp - with ratings of over 80,000 hp <u>Shafts</u> for steam turbines - with ratings of 80,000 hp or less - with ratings of over 80,000 hp <u>Blades</u> for use in rotors employing disc diameters of 16", 20", 25" and 32")	Made Not Made Made Not Made Made Not Made Made Not Made Made*

* Indicates a change from Table 4.

Table 4 contains no specific reference to blades under the "made" category but excludes them from the "not made".goods.

Westinghouse Canada Inc. manufactures the components listed above as "made", except for machined blades for use in rotors employing a base disc diameter of 32" for steam turbines, which it will produce upon receipt of purchase orders.

Three other companies making submissions -viz: Cooper Energy Services Ltd., Ingersoll-Rand Canada Inc., and Solar Turbines Canada, - use imported parts in the manufacture, repair and/or remanufacture of gas turbines.

Tariff Proposals

Westinghouse Canada Inc., suggests:

(i) a variation of the eo nomine approach, providing for a specific product listing of the "not made" components required for both gas and steam turbines, to be allowed duty-free entry, as at present, with "made" goods covered by a n.o.p. ("not otherwise provided for") basket item attracting duty:

Cooper Energy Services Ltd., recommends:

(i) with respect to gas turbines, the basis for establishing any new dutiable area should be the replacement of "class or kind" by the narrower concept of "type and size";
(ii) unless, however, a claim can be made explaining the need for duty protection for the manufacture of such product-specific or non-substitutable components, the wording of the existing item should be retained, with the words "of a class or kind not made in Canada" deleted.

Solar Turbines Canada proposes:

(i) with respect to gas turbines, an eo nomine nomenclature using the size of a gas turbine as a criterion for establishing the made-in-Canada status of components, and in this connection treating the components named in tariff item 44210-1 as not made in Canada when for use in the repair or remanufacture of turbines of less than 13,000 hp;
(ii) determining the dutiable status of "made" components on the basis of their availability in Canada;
(iii) support for the position adopted by Cooper Energy Services Ltd., with respect to the specificity of components.

Ingersoll-Rand Canada Inc., recommends:

(i) the goods named in item 44210-1 be dutiable but subject to duty remission when not available in Canada.

Staff Appraisal

1. Both gas and steam turbines of 50,000 hp or less are produced in Canada, although they have not all been so ruled. It is understood that administrative practice has been to classify the named goods as "made" if imported for use in gas turbines rated at 15,000 hp or less, and as "not made" if imported for use in gas turbines of other capacity or for steam turbines of any capacity.

2. With respect to gas turbines, Westinghouse Canada Inc., manufactures all of the named components, while the Canadian supplier for Solar Turbines Canada purchases blade diaphragms produced in Canada for the first stage of the three-stage power turbine portion of single-shaft and 2-shaft type gas turbines.

3. Westinghouse Canada Inc., is also the only Canadian manufacturer of the named components for steam turbines.

4. On the basis of turbine capacity, (and setting aside the issue of product specificity), the following named components would appear to be made in Canada:

- (a) rotors for single-shaft type gas turbines, each rotor containing air axial compressor and turbine functions for capacity to 50,000 hp;
- (b) rotors for 2-shaft type gas turbines, the one rotor containing the axial air compressor and its drive turbine function, and the other rotor containing the output power turbine function with a rating of 50,000 hp or less;
- (c) blade diaphragms for gas turbines with a rating of 50,000 hp or less, namely, axial air compressor blade diaphragms associated with the air compressor function of gas turbine rotors, and turbine blade diaphragms associated with the turbine function of single-shaft and 2-shaft gas turbines;
- (d) spindle discs and shafts for gas turbines with a rating of 50,000 hp or less;
- (e) rotors for single-stage steam turbines with ratings to 5,000 hp having a disc of base diameter to 25";
- (f) rotors for multi-stage steam turbines with ratings to 80,000 hp having discs of a base diameter to 32";
- (g) blade diaphragms with dimensions corresponding to the dimensions of the rotor discs;
- (h) spindle discs with dimensions corresponding to the dimensions of the rotor discs;
- (i) shafts for steam turbines with a rating to 80,000 hp; and
- (j) blades for use in rotors with disc diameters to 25".

5. Until such time as Westinghouse Canada Inc., actually manufactures machined blades with a disc diameter of 32" for steam turbines, these goods should perhaps be deemed "available" rather than "made".

6. On the matter of product specificity raised by Cooper Energy Services Ltd., and Solar Turbines Canada, a key consideration would appear to be whether Westinghouse Canada Inc., can provide repair or replacement components for turbines produced by other manufacturers.

7. If, in fact, there is a high degree of non-substitutability for the named components, it could be argued that the application of "class or kind" criteria with respect to the components produced by Westinghouse Canada Inc., would add an unwarranted cost to other companies engaged in the repair or remanufacture of gas or steam turbines. In that event, retention of the existing item without the qualifying clause "of a class or kind not made in Canada" might be acceptable.

8. Alternatively, it could be argued that the application of the "class or kind" principle would encourage the Canadian manufacture of the named class of goods by companies other than Westinghouse Canada Inc., or by the latter according to the formers' specifications; in which case, the Westinghouse Canada Inc., proposal, or a variation thereof, might apply.

9. Any decision made with respect to this item might have to be postponed until such time as item 44205-1 (pertaining to materials) comes before the Board in Phase II of this reference.

REFERENCE NO. 157
TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL
OFF-HIGHWAY VEHICLE ACCESSORIES
AND RAILWAY ROLLING STOCK

DECEMBER, 1981

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TARIFF ITEMS 42761-1 AND 42762-1

Existing Tariff Provisions

This pair of items, designed to cover certain tractor attachments and accessories, and their parts, is worded as follows:

Machines and tools, including blades, loaders, rippers, rakes and related operating and controlling gear; all the foregoing for use on internal combustion tractors entitled to entry under tariff item 40938-1:(a)

42761-1	Of a class or kind made in Canada; parts thereof				
1/1/81	2.5 p.c.	13.6 p.c.	35 p.c.	2.5 p.c.	8.5 p.c.
1/1/82		12.8 p.c.			9.2 p.c.
1/1/87		9.2 p.c.			
42762-1	Of a class or kind not made in Canada; parts thereof				
	Free	Free	35 p.c.	Free	Free

The M.F.N. rate applying to item 42761-1 was bound at 9.2 p.c. in the MTN. Free entry under tariff item 42762-1 is also bound under GATT.

This pair of items covers both "made" and "not made" goods imported for the purpose stated. It will be noted that parts follow the goods, regardless of their own "made" or "not made" status; "not made" parts of "made" goods are dutiable under 42761-1 and "made" parts of "not made" goods are usually duty free under item 42762-1.

The average annual value of imports under tariff items 42761-1 and 42762-1 in 1978-80 amounted to \$6.2 million and \$58.7 million respectively.

(a) The nomenclature of tariff item 40938-1 reads as follows:

Internal combustion tractors other than highway truck-tractors and other than the following integrated self-propelled machines; front-end loaders or tractor shovels, tractor dozers, log skidders, log loaders, fork lift or lift trucks, combination excavating and transporting scraper units, combination excavating and loading machines, street sweepers, mobile compressors, and snow moving machines; accessories, n.o.p., and parts thereof, for tractors entitled to entry under this item; parts of tractors entitled to entry under this item

Free	Free	Free	Free	Free
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In the absence of these items some of the relevant goods might be admitted free of duty as "accessories" or "parts" under item 40938-1. Otherwise, those goods considered to be machines, or accessories, attachments, control equipment or tools for use therewith, or parts of all the foregoing, would fall under item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. Some products would probably be classified according to their own material or nature and would have a bound rate of 10.2 p.c., with no provision for lower rates for "not made" or "not available" goods.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings with regard to goods classified under items 42761-1 and 42762-1.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 6, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Machines and tools for use on internal combustion tractors entitled to entry under tariff item 40938-1	
Blades	
521-33-40 Angledozing attachment, for crawler type tractor	Made
521-33-45 Angledozing attachment, for wheel type tractor	Made
521-33-50 Bulldozing attachment, for crawler type tractor	Made
521-33-55 Bulldozing attachment, for wheel type tractor	Made
521-33-60 Bullgrading attachment, for crawler type tractor	Made
521-33-65 Bullgrading attachment, for wheel type tractor	Made
521-33-70 Bulldozer & similar blades, excavating	Made
Loaders	
521-36-83 Bucket, front end loader, industrial	Made
521-39-69 Loading machinery, excavating type, nes	Made
521-36-79 Loader attachment unit, front end, industrial, nes	Uncertain*
546-09-20 Farm loaders, attachments for tractors	Made
Rippers	
522-75-20 Ripper unit, const/mnce tractor mounting	Uncertain*
522-75-30 Scarifier, road breaking	Not Made
522-75-90 Ripper unit, construction/maintenance, nes	Uncertain*

Rakes		Uncertain*
Other machines, tools and/or related operated and controlling gear		
504-83-30	Cylinders, hydraulic, double acting, power transmission	Made
504-85-90	Pump, hydraulic, power transmission, nes	Not Made
504-87-89	Valves, hydraulic, power transmission, nes	Uncertain*
504-87-40	Valves, hydraulic, hand operated, power transmission	Not Made
504-89-20	Controls, hydraulic, power transmission	Uncertain*
504-99-70	Shafts, power transmission, except camshafts/ drive shafts	Not Made
513-32-30	Winch, automotive type	Not Made
513-32-35	Winch, hydraulic operated	
	- to 50,000 lbs	Made
	- over 50,000 lbs	Not Made
513-32-55	Winch, well logging type	
	- to 50,000 lbs	Made
	- over 50,000 lbs	Not Made
513-32-89	Winch, industrial, nes	Made
519-39-45	Logger attachment, for multi-purpose tractor	Uncertain*
521-31-15	Bucket, integral type backhoe, excavating	Uncertain*
521-34-30	Backhoe attachment unit, for tractor	Uncertain*
521-34-50	Bucket, backhoe attachment unit	Made
521-39-21	Bucket, dredging	Made
522-45-24	Sweeper, road, tractor mounting type	Not Made
522-45-32	Snowblower, road, tractor mounting	Made
522-45-42	Snowplow, road, tractor mounting	Made
522-45-89	Removal machinery/equipment, snow, road/ street, nes	Made
522-99-42	Pipelaying attachment, construction, tractor mounting	
	- to 20,000 lbs at 4' from side of machine	Made
	- other	Not Made
541-47-30	Transplanters, agricultural	Made
541-99-89	Soil prep, seeding mach nes, new	Uncertain*
543-29-29	Hay handling machinery nes, new	Uncertain*
544-49-40	Grinder-mixers, mixers, agricultural	Made
546-25-10	Edge tools & blades, agricultural	Uncertain*
551-07-30	Tractors, lawn & garden, attachments:	
	Pull-behind lawnmowers, lawn rollers	Made
	Under-attached lawn mowers, in-front lawn mowers, plows, dozer blades, dump carts and front-end loaders	Uncertain*
	Snowblowers, seed spreaders, lawn cuttings baggers, tillers, lawn sweepers, and aerators	Not Made
763-37-20	Removal equipment, snow, rotary, domestic	Made
763-99-24	Sweepers, lawn	Not Made

* Indicates a change from Table 4 and a class regarding which further information is required.

Commodity classes 521-39-89, 522-99-89 and 546-99-90, formerly included in Table 4, have now been deleted on account of their broad and indeterminate coverage. Conversely, commodity classes 504-89-20, 519-39-45, 521-31-15 and 522-75-90 have been added to the above listing on the basis of a review of 1979-80 import data.

Tariff Proposals

No tariff proposals have been received in respect of items 42761-1 and 42762-1.

Staff Appraisal

1. The lack of interest shown in respect of items 42761-1 and 42762-1 is somewhat surprising in view of the substantial value of imports entering thereunder.

2. Unless information is forthcoming concerning the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are presently available.

3. An eo nomine listing is feasible but, in the absence of further information, will necessitate some arbitrary judgments with respect to the made-in-Canada status of goods.

4. There is, of course, the possibility of collapsing the two items into one under a common tariff; in such a case, the preponderance of imports under the existing "not made" item (42762-1), suggests that entry should be permitted at a nominal rate or free of duty.

TARIFF ITEM 42765-1 EX.

Existing Tariff Provisions

This is a temporary tariff item, first introduced in 1956 and now scheduled to expire on June 30, 1982, for certain equipment used in making road graders or road scrapers. The full wording of the item follows, but the Board is concerned only with the underlined clauses.

Hydraulic equipment, torque converters and engine-over-axle type transmissions, of a class or kind not made in Canada; wheel rims 24 inches or more in diameter; all of the foregoing, and parts thereof, for use in the manufacture of road graders or scrapers

Free	Free	35 p.c.	Free	Free
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While tariff item 42765-1 is not in itself bound under GATT, the goods would be covered by the bindings affecting the parent items (42700-1 and 44603-1), to which they would revert if the item were allowed to expire or, in the case of products before the Board, if they were held to be of a class or kind made in Canada. It will be noted that parts of the goods covered by the item fall under the item regardless of their own made-in-Canada status.

The average annual value of imports under both the referred and non-referred provisions of item 42765-1 in 1978-80 amounted to \$9.3 million.

For those articles considered to be machines, or tools, accessories, attachments or control equipment for use with machines, or parts of all the foregoing, the alternate item would be 42700-1, with a bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program. For other goods, classifiable as "manufactures of iron or steel, n.o.p.", the item would be 44603-1, with a bound rate of 10.2 p.c., and no provision for relief for "not made" or "not available" goods.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings relating to goods entering under tariff item 42765-1.

(b) Commodity Classes

The following listing, taken from Table 4 of Background No. 6, sets out the provisional made-in-Canada status of goods falling under the relevant parts of the aforementioned item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
Hydraulic equipment for use in the manufacture of road graders or scrapers		
504-85-30	Pump, hydraulic, gear type, power transmission	Not Made
504-87-35	Valves, hydraulic, foot operated, power transmission	Not Made
504-85-90	Pump, hydraulic, power transmission, nes	Uncertain*
504-87-89	Valves, hydraulic, power transmission, nes	Uncertain*
Torque converters for use in the manufacture of road graders or scrapers		
504-89-40	Torque converter, power transmission	Uncertain*
Engine-over-axle type transmissions for use in the manufacture of road graders or scrapers		
522-32-28	Grader, self-propelled, parts of nes	Uncertain*
522-32-38	Scraper, road, nes, parts of	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Several commodity classes originally listed in Table 4 have been omitted. These classes are very broad in scope and, for lack of specific product data, cannot be related to the goods enumerated in item 42765-1. Classes 504-89-40 and 522-32-38 have been added by the Board's staff.

Tariff Proposals

Prior to the relevant public hearing, no briefs relating to item 42765-1 had been received by the Board, nor was there a discussion of this item during the hearing. However, subsequently a brief was submitted by Champion Road Machinery Limited, a Canadian manufacturer of road graders assembled partly from imported components. This company proposes:

- (i) retention of the existing item without the clause "of a class or kind not made in Canada";
- (ii) expansion of the coverage of the item to include all goods (with no class or kind provision) when for use in the manufacture of road graders or scrapers.

Staff Appraisal

1. No representations have been received from domestic manufacturers, if any, of hydraulic equipment, torque convertors or engine-over-axle type transmissions for use in road graders or scrapers.

2. To expand the coverage of the aforementioned tariff provisions to include all components for road graders or scrapers would likely exceed the Board's terms of reference.

3. If item 42765-1 were to be amended along the lines suggested by Champion Road Machinery Limited, any domestic producers of components for road graders presently protected under alternative dutiable tariff provisions would lose their protection.

4. However, if none of the classes of goods presently falling under item 42765-1 is found to be made, retention of the item without the "not made" provision might be envisaged.

TARIFF ITEM 43425-1 EX.

Existing Tariff Provisions

This item provides for street-car components as follows:

- (i) "not made" trucks, of welded design with tubular frame, which must also have cast steel cross members, rubber mountings and rubber inserted wheels, but may not include electric motors or magnetic truck brakes;
- (ii) body shells of welded sheet steel, regardless of their made-in-Canada status, again not to include electric motors or magnetic truck brakes;
- (iii) complete parts of the foregoing, entered under this item, regardless of their own "made" or "not made" status.

The Board is primarily concerned with products covered by (i) above. It is interested in (iii) only in respect of the relative treatment of complete parts and finished goods. The full wording of the item, with the relevant clauses underlined, is as follows:

Trucks of welded design with tubular frame, cast steel cross members, rubber mountings and rubber inserted wheels, of a class or kind not made in Canada, and body shells of welded sheet steel, for use in the construction of street railway cars, not to include electric motors or magnetic truck brakes; complete parts of the foregoing

1/1/81	Free	7.5 p.c.	35 p.c.	Free	3 p.c.
1/1/82					7.5 p.c.

The M.F.N. rate of 7.5 p.c. is bound under GATT.

In 1978-80 the average annual value of imports under both the referred and non-referred parts of item 43425-1 amounted to \$71,000.

In the absence of this item, or when ruled to be of a class or kind made in Canada, the goods underlined above, and their complete parts, would be classified as parts of "railway cars, n.o.p." under tariff item 43800-1, with an M.F.N. rate of 17.5 p.c., bound under GATT (Kennedy Round). It will be noted that "complete parts" of the goods covered by item 43425-1 fall under this latter item regardless of their own made-in-Canada status. Other parts would be classified under item 43800-1.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings relating to goods entering under tariff item 43425-1.

(b) Commodity Classes

The following listing, based on Table 4 of Background No. 6, sets out the provisional made-in-Canada status of goods falling under the relevant part of item 43425-1.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Trucks of welded design with tubular frame, cast steel cross members, rubber mountings and rubber inserted wheels, for use in the construction of street railway cars	
587-99-90	Motor vehicles nes	Made
576-28-10	Wheels, railway rolling stock	Made*

* Indicates a change from Table 4.

Commodity class 576-28-10 has been added to the above list on the basis of 1979-80 import data.

Tariff Proposals

Bombardier Inc., submitted the only brief in connection with tariff item 43425-1. In this brief, the firm proposes:

- (i) item 43425-1 be retained but with the phrase "of a class or kind not made in Canada" removed therefrom;
- (ii) retention of the M.F.N. rate of duty of 7.5 p.c.

At the public hearing, Bombardier Inc., advanced a further (alternative) proposal:

- (i) item 43425-1 be struck from the Customs Tariff, allowing the pertinent goods to enter under item 43800-1 at a M.F.N. rate of duty of 17.5 p.c.

Staff Appraisal

1. The value of imports under this item has been negligible in most years since 1966, with the notable exception of 1977 (see Table I, Background No. 6). The explanation of this situation no doubt lies in the decline of street cars as a mode of public transportation. The made-in-Canada status of the goods under reference may also be a significant factor.

2. As the trucks encompassed by the item are manufactured by Bombardier Inc., there would appear to be merit in deleting the "not made" criterion.

3. As for the proposal made at the public hearing for the deletion of the item, this would result in a substantial increase in the M.F.N. rate of duty, from the present 7.5 p.c. to 17.5 p.c. At the same time, such a deletion would involve goods not included in this reference, i.e. body shells of welded sheet steel. However, this latter problem could be overcome by retaining item 43425-1 to cover only body shells.

TARIFF ITEMS 43505-1 AND 43510-1

These items are linked in that they both apply to railway locomotives and both were the subject of a single submission by a Canadian manufacturer.

Existing Tariff Provisions

I. Item 43505-1 (and 43405-1)

Item 43505-1 provides for certain railway equipment, of a class or kind not made in Canada, used in mining, metallurgical or sawmill operations. The item is worded:

Locomotives and motor cars for railways, of a class or kind not made in Canada, and parts thereof (including motive power and parts thereof, of a class or kind not made in Canada), for use exclusively in mining, metallurgical or sawmill operations

Free	Free	20 p.c.	Free	Free
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Despite its somewhat convoluted wording, the item is interpreted as covering the following goods when imported for the uses cited in the item:

- (1) locomotives and motor cars for railways, with or without motive power, when of a class or kind not made;
- (2) parts of the goods in (1), other than motive power and parts thereof, regardless of their own "made" or "not made" status;
- (3) motive power for such locomotives and cars, when the said motive power, nowadays usually a diesel-electric motor, is "not made", and "not made" parts of such motive power.

In 1948, entry under the M.F.N. Tariff was bound at Free for "locomotives and motor cars for railways, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in mining, metallurgical or sawmill operations". In the recently concluded MTN, "motive power and parts thereof, of a class or kind not made in Canada, for locomotives and motor cars for railways of a class or kind not made in Canada, for use exclusively in mining, metallurgical or sawmill operations", were bound at 15 p.c. M.F.N., although the effective rate continues to be Free. It will be noted that except for parts of motive power, the binding for parts is restricted to "complete" parts.

The closest equivalent item for "made" goods is item 43405-1, which is also restricted in application to products for use in mining, metallurgical or sawmill operations - viz:

Locomotives and motor cars for railways, for use exclusively in mining, metallurgical or sawmill operations, n.o.p., and chassis, tops, wheels and bodies for the same, n.o.p.

1/1/81	15 p.c.	16.9 p.c.	30 p.c.	11 p.c.	15 p.c.
1/1/82		16.6 p.c.		11 p.c.	
1/1/87		15 p.c.		10 p.c.*	

* Assuming that the G.P.T. is still in existence in 1987, with rates calculated as at present.

The M.F.N. rate is bound at 15 p.c. Parts not covered by the item would probably be dutiable according to their own material or nature, often with bound rates of 10.2 p.c. Diesel engines and parts thereof generally fall under items 42815-1, 42816-1 and 42817-1, all with bound rates of 9.2 p.c., but the last-named item (covering engines of 500 horsepower or less) encompasses only "complete" parts.

In 1978-80 the average annual value of goods imported under (referred) item 43505-1 amounted to \$4.6 million, while the corresponding value of goods imported under (non-referred) item 43405-1 was \$227,000.

II. Item 43510-1 (and 43410-1)

Item 43510-1 covers diesel switching locomotives (with or without motive power), motive power for the same, and parts of such locomotives or parts of motive power for such locomotives, in all cases subject to the "not made" restriction.

Diesel switching locomotives, including motive power, and parts of the foregoing, of a class or kind not made in Canada

1/1/81	Free	10 p.c.	20 p.c.	Free	6.7 p.c.
1/1/82					10 p.c.

In 1948 the M.F.N. rate of 10 p.c. was bound for diesel switching locomotives, of a class or kind not made in Canada. In the MTN this same binding was extended to "motive power and parts thereof, of a class or kind not made in Canada, for diesel switching locomotives, of a class or kind not made in Canada". There appears to be no binding for parts other than those of motive power.

Locomotives and certain named parts, when "made", fall into item 43410-1, with a bound rate of 15 p.c. Diesel engines and parts (complete parts in the case of engines of 500 horsepower or under) are bound at 9.2 p.c. (items 42815-1, 42816-1 and 42817-1). Other locomotive parts would be classified, if "made", according to their own material or nature, usually at a bound rate of 10.2 p.c.

The coverage of item 43410-1 is much broader than that of item 43510-1, as can be seen from its full nomenclature:

Locomotives for use on railways, and chassis, tops,
wheels and bodies for the same, n.o.p.

1/1/81	15 p.c.	16.9 p.c.	35 p.c.	11 p.c.	15 p.c.
1/1/82		16.6 p.c.		11 p.c.	
1/1/87		15 p.c.		10 p.c.*	

* Assuming that the G.P.T. is still in existence in 1987, with rates calculated as at present.

There are no end-use provisions in referred item 43510-1 or non-referred item 43410-1. Furthermore, item 43510-1 is restricted to "not made" diesel switching locomotives whereas item 43410-1 is open to all types of locomotives, n.o.p. Accordingly, a valid comparison based on values of imports is difficult to make. However, during the three-year period 1978-80, imports under (referred) item 43510-1 averaged \$246,000 per annum, while imports under (non-referred) item 43410-1 amounted to \$1.2 million per annum.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The following rulings contained in Departmental Memorandum D51-15, relate to locomotives or parts thereof:

10/11/49

Diesel electric switching locomotives weighing over 95 tons have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada.

3/2/60

Diesel mechanical, diesel electric and diesel hydraulic locomotives, weighing from 15 tons to 95 tons, inclusive, have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada.

11/5/60

Flameproof diesel underground mining locomotives, weighing up to and including 17 tons (34,000 pounds), are considered to be of a class or kind not made in Canada, effective 11th May 1960.

Note: This ruling supersedes, in part, the ruling of 3/2/60, above.

31/12/58

Locomotive stokers, type BK were transferred from the category of a class or kind made in Canada to that of a class or kind not made in Canada, effective 31st December 1958.

Note: All other types of locomotive stokers are presently ruled as a class or kind not made in Canada.

As to motive power, the Departmental ruling on diesel engines is also set forth in Memorandum D51-15-1 - viz:

17/7/78

Diesel or semi-diesel engines having a continuous rated brake horsepower of 500 to 5,000 BHP, inclusive, together with a piston displacement of 500 cubic inches per cylinder and above, inclusive, have been considered to be of a class or kind made in Canada effective August 17, 1978.

Notes:

1. Diesel or semi-diesel engines having a continuous rated brake horsepower within the range of 500 BHP to 4,000 BHP, inclusive, together with a piston displacement of from 600 cubic inches per cylinder, to 700 cubic inches per cylinder, inclusive, are already ruled to be of a class or kind made in Canada, effective May 28, 1970.

2. Diesel or semi-diesel engines having a piston displacement of less than 500 cubic inches, per cylinder, are considered to be of a class or kind not made in Canada.

There is also one published ruling with respect to parts of diesel engines, namely:

20/11/48

Pyrometer sets, especially designed for diesel or semi-diesel engines, consisting of a selector switch, temperature dial and one or more thermocouples, have been transferred from the category of a class or kind not made in Canada to that of a class or kind made in Canada.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Table 4 of Background No. 6, sets out the provisional made-in-Canada status of goods falling under the referred tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Locomotives and motor cars for railways, motive power and parts thereof, for use exclusively in mining, metallurgical or sawmill operations	
571-29-20 Locomotives, road units	Made
571-29-30 Locomotives, yard switcher units	Made*
571-29-90 Locomotives, nes	Made*
571-57-10 Locomotive engines, diesel & semi-diesel (800 to 5,000 hp)	Made*
571-58-90 Locomotive engines, nes	Made*
571-57-10 Locomotive engines, diesel & semi-diesel (other than 800 to 5,000 hp)	Not Made*
Diesel switching locomotives, including motive power, and parts of the foregoing	
571-29-30 Locomotives, yard switcher units	Made*

* Indicates a change from Table 4.

Changes in the made-in-Canada status of goods, indicated above, reflect information contained in the submission made to the Board by Bombardier Inc. In that submission, the company indicates, with respect to commodity classes 571-29-30 and 571-57-10, that it has the capability to build locomotive yard switcher units, as well as the capability to manufacture diesel and semi-diesel locomotive engines from 800 hp to 5,000 hp. (At the public hearing it was stated that diesel locomotive engines are not built with a rating in excess of 5,000 hp).

Tariff Proposals

Bombardier Inc. presented the only submission in respect of both tariff item 43505-1 and item 43510-1. In its submission, the company proposes:

- (i) items 43505-1 and 43510-1 be combined into a single new item bearing a M.F.N. rate of 10 p.c. ad valorem;
- (ii) this new item be made subject to the "availability" criteria embodied in the current Machinery Duty Remission Program;
- (iii) elimination of the end-use provision at present contained in item 43505-1;
- (iv) a nomenclature which would read:

Locomotives, parts thereof ... 10 p.c. M.F.N.

Except that in the case of the importation into Canada of any of the dutiable goods under this item the Governor in Council on the recommendation of the Ministry of Industry, Trade and Commerce may on application by a manufacturer, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified.

Staff Appraisal

1. No representations have been received from locomotive users with respect to either item 43505-1 or item 43510-1.

2. The tariff proposal put forward by Bombardier Inc., has the merit of simplifying the schedule for locomotives, but the nomenclature would probably require an "n.o.p." rider because of the existence of items 43600-1 and 43700-1.

3. The proposed item would encompass, at lower rates of duty, the locomotives, and parts thereof, now included in items 43405-1 and 43410-1.

4. On the other hand, the proposed item would make dutiable (subject to remission) the locomotives now admitted free under item 43505-1. However, the motor cars for railways now classified under this item and item 43405-1 would revert to item 43415-1 at rates higher than provided in 43405-1 until 1984 and at lower rates thereafter.

5. Parts would be drawn into the proposed item from many parts of the schedule, and to this extent the proposal appears to go beyond the scope of the reference.

6. The proposed new item contains no mention of motive power, as do the two items specifically under review. However, at the public hearing it was determined that the new item has been designed to apply only to locomotives, with a separate provision elsewhere in the Customs Tariff for diesel and semi-diesel engines, i.e. the motive power. This suggestion appears to be predicated upon the proposal for diesel engines put forward by Bombardier Inc., and discussed under item 42865-1 (q.v.), under which "made" engines would be dutiable at 9.2 p.c., subject to an availability proviso, and "not made" engines would be free of duty. Even in the absence of such a provision, the goods would revert to items 42815-1, 42816-1 and 42817-1, with bound rates of 9.2 p.c., lower than the bound rates of 15 p.c. and 10 p.c. applicable to "motive power" in items 43505-1 and 43510-1 respectively. Thus, the proposed separation would not appear likely to pose any problems.

TARIFF ITEMS 43705-1 AND 43710-1

Existing Tariff Provisions

These items are linked in that they both relate to railway signal systems.

Item 43705-1 is very broad, covering all materials and parts of a class or kind not made in Canada used in the manufacture or repair of railway signal systems. The item is worded as follows:

Materials, including all parts, of a class or kind not made
in Canada, used in the construction or repair of railway
signal systems

Free	Free	30 p.c.	Free	Free
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The M.F.N. rate of Free was bound in the MTN.

The words "materials, including all parts" are capable of a very broad interpretation. In the absence of this item, or when "made", the goods would all be classified according to their own nature or material. There is no eo nomine provision for railway signal systems and many of the components would otherwise be classified under items in the electrical schedule (which have provisions for "complete parts" and bound rates of 10.2 p.c.), or under machinery items (which also cover parts, with a bound rate of 9.2 p.c.), subject to the Machinery Duty Remission Program. Many items providing for unenumerated manufactures of various materials also have bound rates of 10.2 p.c., but a number of other rates are also relevant.

Imports, primarily from the United States, have risen from approximately \$7.4 million in 1966 to \$19.3 million in 1980. For the three-year period 1978-80 inclusive, imports averaged \$15.6 million per annum.

Item 43710-1 relates to certain named types of batteries, now understood to be obsolete, as long as they are of a class or kind not made in Canada, and their parts, when for railway signals. It covers:

Copper oxide, zinc, alkaline electrolyte, primary (wet) cell
batteries, of a class or kind not made in Canada, for
railway signal systems; parts of the foregoing

Free	Free	27.5 p.c.	Free	Free
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The M.F.N. rate was bound at Free under the MTN.

For many years, there have been virtually no imports under item 43710-1, total import values of \$1,000, zero and \$8,000 being recorded in respect of 1978, 1979 and 1980 respectively.

In the absence of this item, or when "made", these batteries, and complete parts thereof, would fall under tariff item 44512-1, with a bound rate of 10.2 p.c. Parts, other than complete parts, would be dutiable according to their own material or nature, often as unenumerated manufactures of various materials, also with bound rates of 10.2 p.c. Parts of the "not made" batteries of item 43710-1 are, however, admissible under that item regardless of their own made-in-Canada status.

Although there is no provision in the tariff for railway signal systems as such, there is one further item relating to such systems, namely tariff item 43715-1. This reads:

Insulated rail joints and connections for use therewith, used
in the construction or repair of railway signal systems;
parts of the foregoing

Free	Free	25 p.c.	Free	Free
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This item is not included in Reference No. 157, but requires some consideration in light of the proposals put forward to the Board.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Tariff item 43705-1: Memorandum D51-14, issued by the Department of National Revenue, indicates that "crossing gate lamps" are of a class or kind made in Canada. There do not appear to be any other published rulings related to the item.

Tariff item 43710-1: There do not appear to be any published rulings currently in existence with regard to this tariff item.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 6, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Materials, including all parts, used in the construction or repair of railway signal systems	
495-09-90	Insulating fittings for electrical equipment nes	Not Made*
639-99-30	Relays, electronic	Not Made*
684-99-50	Relays, electric power, protective	Not Made*
720-54-23	Semaphores, railway	Not Made
720-54-24	Signal box equipment, railway	Not Made
720-54-25	Detectors, railway	Not Made
720-54-28	Railway signal systems, parts of	Not Made
720-54-29	Railway signal systems, nes	Not Made
720-54-38	Control equipment, safety, railway, nes, parts of	Not Made
720-54-39	Control equipment, safety, railway, nes	Not Made
	Copper oxide, zinc, alkaline electrolyte, primary (wet) cell batteries for railway signal systems	N.A.*

*Indicates a change from Table 4.

The foregoing changes in the provisional made-in-Canada status of materials and parts are as a result of representations made by The Railway Association of Canada.

Batteries used in present-day signal systems are understood to be of a class or kind made in Canada. However, information obtained by the staff from a domestic manufacturer of batteries would indicate that the types of batteries described in item 43710-1 are no longer used in railway signal systems. Furthermore, at the public hearing, a spokesman for The Railway Association of Canada agreed, in response to a question, that this item is obsolete and could be deleted from the Customs Tariff.

(c) Other Information

As part of its submission on tariff item 43705-1, The Railway Association of Canada submitted a list of relevant "made" goods. This is reproduced below:

ITEMS FOR RAILWAY SIGNAL SYSTEMS MANUFACTURED IN CANADA

Wire and cable
Pole line materials*
Bootleg pedestals
Pole line type lightning arresters*
Signal masts and ladders
Signal bridges, cantilevers and appurtenances
Pipe for mechanical connections and air lines
Semaphore train order signals

Batteries
Signal lamp bulbs
Power transformers
Apparatus housings without shelving or signal equipment
Cable splicing kits
Signal mast bases, pinnacles and clamps
Power service entrance equipment
Fuses
Wooded gate arms
Employee call devices
Signs
Number plates
Flashing light crossarms
Electrical tape
Bolts, nuts and screws
Paint
Padlocks

* Being reviewed by TRAC as to definition and/or source.

Glenayre Electronics Ltd., Vancouver, B.C., is developing a Location Identification and Control (LIC) System, which is being used experimentally by the British Columbia Railway, an intra-provincial line that does not require sanction from the Canadian Transport Commission to use the system. The CTC has not yet been asked to approve its use on inter-provincial lines.

Tariff Proposals

No representations were made to the Board in regard to tariff item 43710-1. The Railway Association of Canada (TRAC), representing all Canadian railways as well as those U.S. lines operating in Canada, submitted the only brief received with respect to item 43705-1. TRAC's comprehensive brief proposes:

- (i) duty-free entry, without regard to availability in Canada, of all equipment for use in railway signal systems;
- (ii) a definition in the Customs Tariff, such as that reproduced below, delineating the scope and meaning of a railway signal system:

Railway signal systems are automatic systems, supervisory control systems, telemetry systems, and other similar systems by which railways:

- (a) Govern or control the movement and route of rail vehicles;
- (b) Warn of the approach of rail vehicles;
- (c) Detect dangerous conditions on or near the track or on rail vehicles;
- (d) Determine the identity of passing rail vehicles.

Such systems do not include:

- (a) The running rails or any other part of the normal track structure;
- (b) Parts of a railway vehicle required for its operation independent of the signal system;
- (c) Systems for the control of locomotives from a control locomotive;

- (iii) a proposed new tariff item, which would read:

Railway signal systems and all parts and materials for use therein.

The above proposal is broad enough to comprehend the goods covered by both items 43710-1 and 43715-1. In any case, as already indicated, the Association has agreed that item 43710-1 is obsolete and might be deleted. It has further indicated that it would be agreeable to the deletion of item 43715-1 if assured that the goods would fall under the proposed new item. Glenayre Electronics Ltd., in response to an inquiry from the Board's staff, indicated its approval of the Association's proposal.

Staff Appraisal

1. There is no tariff provision, at present, for a complete signals system as such; if one were to be imported, it would probably be classified either as "electrical apparatus and complete parts thereof, n.o.p." (tariff item 44524-1, bound rate 10.2 p.c.) or as "all goods not enumerated in this schedule ..." (tariff item 71100-1, bound rate 10.2 p.c.) Materials and parts excluded from item 43705-1 as "made" would be classified under a wide variety of items with varying rates of duty.

2. TRAC's proposal would remove all protection from Canadian manufacturers, who apparently supply more than one-quarter of the value of parts and materials used in railway signals systems in Canada. The Association claims that overall duty-free entry would eliminate difficulties in defining "not made" goods to be provided with free access, but that member bodies would continue to source in Canada whenever possible.

3. The TRAC proposal, or any variation thereof, would eliminate the need to retain items 43710-1 and 43715-1.

4. It is understood that the system produced by Glenayre Electronics Ltd. is based largely on imported parts and materials; implementation of the TRAC proposal would permit the company to obtain all such parts and materials without the payment of duty.

5. The wide variety of "made in Canada" materials and parts suggests that there might, in this instance, be merit in creating a dutiable item (perhaps at 10.2 p.c.), with non-available goods being allowed free entry under a duty-remission provision; deletion of the word "materials" from such an item would significantly reduce the size of the product identification problem.

6. If a definition of a railway signal system is accepted as being desirable for customs purposes, it might best be provided by either:

(a) incorporating the definition into the nomenclature of the pertinent tariff item, e.g.:

Signal systems (which are automatic systems, supervisory control systems, telemetry systems, and other similar systems) by which railways govern or control the movement and route of rail vehicles, warn of the approach of rail vehicles, detect dangerous conditions on or near the track or on rail vehicles, or determine the identity of passing rail vehicles; parts and materials for use therein; or

- (b) making provision in the item for the prescription of regulations by the Minister.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE I

STAFF APPRAISAL

MEASURING AND PRECISION INSTRUMENTS,
RECORDING APPARATUS AND CONTROL
DEVICES

DECEMBER, 1981

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TARIFF ITEM 43150-1

Existing Tariff Provisions

Geophysical precision instruments and equipment of a class
or kind not made in Canada:

Parts, attachments, tripods, base plates and fitted cases
for all the foregoing

Free	Free	20 p.c.	Free	Free
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This item was first introduced into the Customs Tariff in 1948 and, while its wording has been greatly shortened over the years, it has always provided free entry for "not made" geophysical precision instruments and equipment. The "not made" requirement, however, does not extend to the parts, attachments, tripods, base plates and fitted cases mentioned in the latter part of the item. Free entry under the M.F.N. Tariff is bound under GATT.

The average annual value of goods imported under this item in 1978-80 was \$13.7 million.

In the absence of this item, or when ruled "made in Canada", the goods would generally be classified under tariff item 46200-1, from which this item originally derived. A few goods, however, would probably fall under tariff item 44524-1. The bound rates for these items under the MTN are 7.5 p.c. and 10.2 p.c., respectively.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of seismographs is treated in Customs Memorandum D51-11. Rulings with respect to ground and airborne magnetometers, various other meters, geophysical seismic cables, and sub-bottom profiling sets are contained in Customs Memorandum D51-22.

(b) Commodity Classes

The following listing, based upon a modified version of the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

Commodity <u>Class</u>	Provisional Made-in-Canada <u>Status</u>
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Geophysical precision instruments and equipment

703-62-12	Barometer/hydrometer/thermometer combination	Uncertain*
703-62-90	Meteorological instruments/apparatus nes: Automatic weather stations; ceilometers; facsimile equipment; instrumented weather buoys; minisonde systems; runway visual range computers; transmissometer; videographs (fog detectors); weather infor- mation processing & distribution systems; weather satellite receiving stations	Made
	Others	Not Made
709-93-90	Surveying instruments nes	Uncertain*
709-94-11	Magnetometers, geophysical: Airborne, base station, marine (proton pre- cession type); airborne (proton precession type); airborne & marine (caesium type); base station (fluxgate & proton types); portable (fluxgate & proton precession types); portable, airborne, base station (proton precession & fluxgate types); portable vertical field; squid type	Made
	Others	Not Made
709-94-21	Seismic instruments	Not Made
709-94-31	Meters, gravity, prospecting: Quartz type	Made
	Others	Not Made
709-94-90	Geophysical instruments nes: Data acquisition systems & recorders; deep tow system for geophysical exploration of seabed; earthquake detector; electromagnetic systems; electronic level; induced polarization systems, resistivity measuring system	Made
	Others	Not Made
709-95-20	Nuclear radiation detecting/measuring instruments	Made
709-99-31	Research equipment, oceanographic: Analysers, electrical & electronic; buoys (oceanographic, navigation, weather marker); cable and cable handling gear, electro-mechanical; decompression & diving chambers & habitats; depth indicators & recorders; meteorological equipment; naviga- tion equipment (magnetic compasses, radio direction finders, logs, heading sensors, gyrocompasses, satellite instruments, radar, sonar, inertial systems); oceanographic indicators & recorders; samplers (biolo- gical, bottom, dredge, core, water plank- ton); sensors & transducers (instruments & equipment for measuring conductivity, current density, depth, gravity, geomagnetic, pressure, temperature, tide variation); telemetry instru- mentation (signal conditioners, transmitters, receivers); transponders	Made
	Others	Not Made

* Indicates a change from Table 4 and a class regarding which further informa-
tion is required.

Commodity classes 703-62-12 and 709-93-90 have been added to the Table 4 listing following a review of import data for 1979-80; observations are invited with respect to the relevance and made-in-Canada status of these categories.

Commodity class 702-17-89 ("electrical properties measuring instruments nes"), originally listed with "not made" goods in Table 4, has been deleted, since further inquiry has indicated that, in general, the class relates to products which seem more appropriately classifiable under existing items 44524-1 and 44532-1 than under item 43150-1. The class is "nes" to some ten other classes relating to electrical precision measuring instruments, none of which was studied in relation to geophysical precision instruments. For this reason, the commodity class description cannot be of further assistance in deriving the eo nomine description of "not made" goods falling under the ambit of item 43150-1.

Tariff Proposals

No specific representations have been received with respect to tariff item 43150-1. Both the Canadian Association of Oilwell Drilling Contractors and the Canadian Water Well Association have mentioned the item as being of interest.

Staff Appraisal

1. Despite substantial imports, neither Canadian producers nor users have made any specific proposals with respect to the item. If no additional information is forthcoming in connection with the review hearing, the fate of the item will have to be decided on the basis of the limited data which are now available.

2. One possibility would be to retain the nomenclature of the existing item without the qualifying clause "of a class or kind not made in Canada", thereby allowing certain "made" goods to qualify for duty-free entry.

3. While exceptions might be provided for some "made" articles, it would appear to be extremely difficult, from the limited evidence at hand, to circumscribe the "made" goods in a sound eo nomine nomenclature.

TARIFF ITEM 43155-1

Existing Tariff Provisions

Photogrammetric instruments and equipment for use in the interpretation of photographs and in the preparation of maps and plans from photographs, including the following: stereoscopes, binoculars for use with stereoscopes, parallax bars, height finders, contour finders, sketchmasters, slotted template equipment and accessories for use with any of the foregoing; stereoscopic plotting instruments and equipment of either optical-mechanical or projector type, including such accessories as plotting and tracing tables whether electrically, mechanically or remotely operated, optical instruments for preparing diapositive plates, voltage regulators and electrical transformers, cooling systems, lamps, spectacles, filters, height gauges, principal point selectors and other components for use with the foregoing equipment; all the foregoing of a class or kind not made in Canada and parts and fitted cases for any of the foregoing

Free	Free	20 p.c.	Free	Free
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The two parts of this item are as distinct as two separate items. The first part covers photogrammetric instruments and equipment (including certain named goods) and accessories, all of which must be for use in the interpretation of photographs and in the preparation of maps and plans from photographs. The second part covers stereoscopic plotting instruments and equipment, and names certain accessories which may be included, but there is no end-use requirement. All of these goods must be of a class or kind "not made" in Canada. "Parts and fitted cases for any of the foregoing "are admissible under the item regardless of their own made-in-Canada status. Free entry under the M.F.N. Tariff was bound in the MTN.

The average annual value of imports of goods under item 43155-1 in 1978-80 was \$2.5 million.

When excluded from this item because they are of a class or kind made in Canada, or, in regards to the first portion of the item, because they are not intended for any of the end uses specified, the goods, with few exceptions, would fall under tariff item 46200-1, with a bound M.F.N. rate of 7.5 p.c. The plotting and tracing tables would fall under item 42700-1, with a bound rate of 9.2 p.c. but subject to the Machinery Duty Remission Program. In both these cases, the parts would follow the goods. Fitted cases would be under item 62300-1, with a bound rate of 11.3 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Customs Memorandum D51-17 rules certain classes or kinds of voltage regulator to be made in Canada.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Photogrammetric instruments and equipment for use in the interpretation of photographs and in the preparation of maps and plans from photographs, including the following:	
	Stereoscopes, binoculars for use with stereoscopes, parallax bars, height finders, contour finders, sketchmasters, slotted template equipment and accessories for use with any of the foregoing	
709-93-11	Photogrammetric instruments, except cameras	Not Made
709-93-17	Photogrammetric instruments, accessories	Not Made
	Stereoscopic plotting instruments and equipment of either optical-mechanical or projector type, including such accessories as plotting and tracing tables whether electrically, mechanically or remotely operated, optical instruments for preparing diapositive plates, voltage regulators and electrical transformers, cooling systems, lamps, spectacles, filters, height gauges, principal point selectors and other components for use with the foregoing equipment	
709-93-11	Photogrammetric instruments, except cameras: <u>Anaplot</u> , <u>Autoplot</u> and <u>Photomapper</u> Other	Made* Not Made
709-93-17	Photogrammetric instruments, accessories	Not Made
912-19-90	Projection apparatus & equip. nes	Uncertain*

* Indicates a change from Table 4 and a class regarding which further information is required.

Commodity class 912-19-90 is included above on the basis of 1979-80 import data. It is a broad class but seemingly might encompass plotting and tracing tables.

The terms "Anaplot", "Autoplot" and "Photomapper" are understood to be trade names; if the pertinent goods are to be named, generic descriptions are required. A question arises, however, concerning the appropriate tariff classification of the three above-specified products, and whether they might not be more appropriately classified elsewhere in the Customs Tariff. Observations on this matter are invited.

Tariff Proposals

No specific representations have been received with respect to this tariff item. Both the Canadian Association of Oilwell Drilling Contractors and the Canadian Water Well Association have mentioned the item as being of interest.

Staff Appraisal

1. In the absence of any further information, the Board's decision will have to be based on whatever data are now available.

2. Since the bulk of the goods covered by the item appear to be not made in Canada the existing nomenclature might be retained except for the qualifying clause "of a class or kind not made in Canada".

3. Alternatively, in view of the absence of any specific representations from manufacturers, importers or users, the item might be eliminated and the goods allowed to fall elsewhere in the Customs Tariff.

TARIFF ITEM 44028-1

Existing Tariff Provisions

Chronometers and compasses, and parts thereof, including
cards therefor, of a class or kind not made in Canada,
for ships or aircraft

Free Free Free Free Free

This item provides free entry under all Tariffs for chronometers and compasses, and parts thereof, including cards therefor, when "not made" and when for ships or aircraft. However, compasses for civil aircraft, whether made or not made in Canada enter under item 44062-1, which has a M.F.N. rate of Free, bound in accordance with the International Air Agreement, of which Canada is a signatory. Parts are not covered under item 44062-1. In effect, item 44028-1 covers "not made" compasses for non-civil aircraft and ships, as well as "not made" chronometers and "not made" parts of compasses and chronometers for all aircraft and ships. Free entry under the M.F.N. Tariff was bound in the MTN.

The average annual value of goods imported under item 44028-1 in 1978-80 was \$1.8 million.

When of a class or kind made in Canada, compasses and parts thereof are classified under tariff item 46200-1, with a M.F.N. rate of duty bound at 7.5 p.c. The cards are classified under tariff item 18100-1, with a M.F.N. bound rate of 11.3 p.c.

When not for the use specified, or if made in Canada, chronometers fall under tariff item 36800-1, which has no provision for parts, as such, but does provide for clock movements, clockwork mechanisms and clock cases. Parts of such movements and mechanisms are covered by tariff item 36900-1. The M.F.N. rates of duty for these items have been bound under the MTN at 22.5 p.c. and 8 p.c., respectively.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is unaware of any published ruling on the made-in-Canada status of the goods in this item.

(b) Commodity Classes

The following listing, based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Chronometers and compasses and parts thereof, including cards therefor, for ships or aircraft	
Chronometers	
709-19-90 Navigation instruments and apparatus, nes	Not Made*
Parts thereof	
709-19-88 Navigation instruments, parts of nes	Not Made*
Compasses	
709-19-21 Compasses, directional, except radio	Not Made
709-19-31 Compasses, gyromagnetic	Made
Parts thereof	
709-19-28 Compasses, magnetic, except radio & gyromagnetic, parts of	Not Made
709-19-38 Compasses, gyromagnetic, parts of	Uncertain*
Cards therefor	Uncertain*

* Indicates a change from Table 4 or a class regarding which further information is required.

In Table 5 of Background No. 7 it is indicated that chronometers are manufactured by Litton Systems Canada Limited and that parts of chronometers are made by Leigh Instruments Limited, Ottawa. It is now understood that these goods are not produced by the aforementioned firms. The provisional made-in-Canada status of the relevant classes has, therefore, been changed to reflect this appreciation.

Tariff Proposals

Litton Systems Canada Limited, which both manufactures gyromagnetic compasses and imports gyromagnetic compass parts, recommends:

- (i) continuation of the duty-free status accorded to gyromagnetic compasses and parts thereof;
- (ii) adoption of the following nomenclature:

Computer mechanized compass and pointing systems (and parts thereof), for land, sea and airborne applications.

Staff Appraisal

1. The made-in-Canada status of compass cards entering under tariff item 44028-1 is still uncertain. In the absence of any further information thereon, a determination will have to be made on the basis of whatever data are presently available.

2. While the nomenclature proposed by Litton Systems Canada Limited has the merit of defining more precisely the gyromagnetic compasses in which the firm has a specific interest, it does not comprehend the other compasses, chronometers, and parts thereof, encompassed by the nomenclature of the item under review, most of which goods are not apparently made in Canada.

3. On the other hand, in relation to the tariff treatment of gyromagnetic compasses, the company's proposal would significantly widen the scope of the existing item, insofar as the end-use provision would be extended to embrace all land, sea and airborne applications and not be restricted, as at present, to the furnishing of ships and aircraft.

4. The company's proposal would also have the effect of extending duty-free entry to "made" parts, as well as "not made" parts, of gyromagnetic computer mechanized compasses. The nature and made-in-Canada status of such parts (including those presently produced by Litton Systems Canada Limited) need to be more exactly defined.

5. The proposed nomenclature also employs the term "system", which could give rise to administrative difficulties, inasmuch as this term is normally used to refer to an arrangement of units whose functions are coordinated, while the Canadian Customs Tariff as a rule provides for individual units only, and entities comprised of more than one unit are not defined.

6. In view of the representation made by Litton Systems Canada Limited (the only known Canadian manufacturer of any of the named goods), the nomenclature of the existing item might be retained without the qualifying clause "of a class or kind not made in Canada". This would provide Litton Systems Canada Limited (or any other domestic producer) with duty-free access to all imported parts, irrespective of their made-in-Canada status.

TARIFF ITEM 44315-1

Existing Tariff Provisions

Automatic pilots, thermostatic controls, thermostatically-operated controls, hydrostatically-operated controls and parts of the foregoing, of a class or kind not made in Canada, for use in the manufacture of gas water heaters

1/1/81	Free	3.8 p.c.	30 p.c.	Free	Free
1/1/82		3.1 p.c.			
1/1/87		Free			

This item provides for automatic pilots, certain types of controls and parts thereof, all of which must be "not made", and must be for the manufacture of gas water heaters.

The value of imports under this item in 1978-80 averaged \$45,000 per annum.

When excluded from the item because they are "made", or because they are not intended for the use specified, these articles are dutiable according to material, most likely under tariff item 44603-1 or other items having a bound M.F.N. rate of 10.2 p.c.

Provisional Made-in-Canada Status of Goods

a) Published Rulings

Customs Memorandum D51-22 deals with the made-in-Canada status of combination gas control devices, including pilot safety devices but not including thermostatically-operated gas control valves for water heaters.

b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Automatic pilots, thermostatic controls, thermostatically-operated controls, hydrostatically-operated controls, and parts of the foregoing, for use in the manufacture of gas water heaters	

653-94-10	Water heaters, parts of nes	
	Automatic pilots	Made*
	Thermostatic controls	Made*
	Thermostatically-operated controls	Made*
	Hydrostatically-operated controls	Not Made*

* Indicates a change from Table 4.

Following enquiries by the Board's staff, subsequent to the public hearings, it was ascertained that both White Rogers Controls, Division of Emerson Electric Canada Limited of Markham, and Robert-Shaw Controls (Canada) Limited of Toronto, manufacture automatic pilots, thermostatic and thermostatically-operated controls which can be used in the manufacture of gas water heaters.

Tariff Proposals

No submissions with respect to the goods enumerated in item 44315-1 have been received from either domestic manufacturers or users.

Staff Appraisal

1. In view of the lack of interest in this item and the low value of imports thereunder, its elimination, allowing the goods to fall elsewhere in the Customs Tariff, might be envisaged.

2. Alternatively, since hydrostatically-operated controls appear to be the only category of goods covered by the nomenclature which are not now made in Canada, they might be separately named in a new duty-free tariff item, and in this connection consideration might also be given to the dropping of the present end-use provision.

TARIFF ITEM 44320-1

Existing Tariff Provisions

Gas control devices, n.o.p., of a class or kind not made in Canada, for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or for heating buildings, or for heating water, or for refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device; parts of the foregoing

1/1/81	Free	3.8 p.c.	30 p.c.	Free	Free
1/1/82		3.1 p.c.			
1/1/87		Free			

The M.F.N. rate of duty is bound at Free under GATT.

The item was first introduced in 1953 to provide for gas control devices of a class or kind not made in Canada used for certain specified purposes. In 1954 a distinction was drawn between gas pressure regulators and other gas control devices, the former being provided for separately in a new tariff item. The range of specified end uses was also widened at that time and applied to both items. Gas pressure regulators, for the uses mentioned above, are provided for in tariff item 44325-1 at a M.F.N. rate of 5 p.c. without regard to their made-in-Canada status.

The average annual value of imports under this item in 1978-80 was \$7.9 million.

In the absence of item 44320-1, or when excluded therefrom as being "made in Canada", or when not intended for one of the uses specified, gas control devices other than gas pressure regulators would, when qualifying, fall under either item 44300-1, 44300-2, or 44300-3 (encompassing apparatus for cooking, or for heating buildings) which, in 1987, will have M.F.N. bound rates of 11.3 p.c., 12.5 p.c. and 12.5 respectively. When for other applications, such as heating water, refrigeration, etc., the goods would probably be dutiable according to material at bound rates of 10.2 p.c.

It will be noted that parts of gas control devices admissible under item 44320-1 also fall under that item regardless of their own made-in-Canada status.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of various valves and gas control devices is treated in Customs Memorandum D51-22. Not all of the rulings which might relate to tariff item 44320-1 were necessarily issued directly in relation to this item.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Gas control devices, n.o.p., for use on, or for the manufacture or repair of, or for conversion to, gas-fired apparatus for cooking, or for heating buildings, or for heating water, or for refrigeration; including such devices when for use in the gas line between such apparatus and the meter, or in the gas line between such apparatus and the consumer's gas storage device	
468-09-89 Valves, automatic operator controlled, nes	Made
468-19-32 Valves, globe, steel, except power	Uncertain*
468-29-24 Valves, butterfly, brass or bronze, exc power	Uncertain*
468-29-90 Valves, brass or bronze, nes, except power	Made
468-44-19 Valves, relief, nes	Uncertain*
468-44-59 Valves, air control, nes	Not Made
468-44-79 Valves, titanium, nes	Uncertain*
468-44-89 Valves, nes	Made
654-36-88 Gas burners, heating type, parts of nes	Not Made
703-71-10 Thermal measuring/controlling instruments nes	Not Made
703-75-11 Pressure measuring/controlling instruments	Not Made
703-75-21 Vacuum measuring/controlling instruments	Uncertain*
703-79-90 Measuring & measuring/controlling instruments nes	Not Made

* Indicates a change from Table 4 and a class regarding which further information is required.

The five classes listed as "uncertain" have been added as a result of an on-going study of import data. With respect to some of the other classes, a made-in-Canada designation has been ascribed above because, in relation to certain other tariff items in the reference, such classes were found to be "made". However, information is now required as to the status of goods in these classes which would qualify for entry under item 44320-1.

Tariff Proposals

No representations were received in connection with this tariff item.

Staff Appraisal

1. In the absence of further information with respect to the "uncertain" commodity classes indicated above, these classes will have to be assigned on the basis of such data as are presently available.

2. Since, except for certain valves, the products covered by tariff item 44320-1 are apparently not made in Canada, the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

TARIFF ITEM 44524-2

Existing Tariff Provisions

Indicating and/or controlling equipment, of a class or kind not made in Canada, for flame failure protection, and complete parts thereof

1/1/81	Free	7 p.c.	30 p.c.	Free	5.5 p.c.
1/1/82		6.8 p.c.			
1/1/87		5.5 p.c.			

The M.F.N. rate of duty is bound at 5.5 p.c. under GATT.

This is one of six items appearing in the Customs Tariff under the general heading: "Electric apparatus and complete parts thereof, n.o.p.". It will be noted that complete parts of the goods fall under this item regardless of their own made-in-Canada status. Other parts would be dutiable according to material, usually with a bound rate of 10.2 p.c.

The average annual value of imports under this item in 1978-80 was \$4.3 million.

If excluded from this item because they are ruled to be of classes or kinds made in Canada, or are not for the end use specified, the goods would revert to the first of the six aforementioned items, i.e., item 44524-1, which reads: "Other than the following". The M.F.N. rate of duty for item 44524-1 is bound at 10.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

While not necessarily issued with respect to the administration of item 44524-2, a number of rulings published in Customs Memorandum D51-22, with respect to gauges and valves, may well be relevant to this item.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Indicating and/or controlling equipment for flame failure protection	

468-44-19	Valves, relief, nes	Uncertain*
684-99-70	Reclosers, oil, electrical circuits	Uncertain*
684-99-90	Switchgear & protective equipment nes	
	Flame failure protective equipment for residen- tial sized heating furnaces using sensors of the thermocouple, bimetal or optical types	Made
688-59-90	Control equipment, electrical, industrial nes	
	Flame failure protective equipment for com- mercial & industrial sized boilers or furnaces	Made
703-71-10	Thermal measuring controlling instruments nes	Uncertain*
703-75-11	Pressure measuring/controlling instruments	Not Made
703-95-90	Measuring & measuring/controlling instruments parts nes	Uncertain*
720-59-78	Signal systems nes, parts of	
	Indicating and/or controlling equipment for flame failure protective equipment for commer- cial & industrial sized boilers or furnaces as part of system	Made
720-59-88	Alarm systems, nes, parts of	
	Indicating and/or controlling equipment for flame failure protective equipment for commer- cial & industrial sized boilers or furnaces as part of system	Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Commodity classes 468-44-19, 684-99-70 and 703-71-10 have been added to the table on the basis of an ongoing study of import data. In relation to goods classified under other tariff items in Reference No. 157, class 468-44-19 has been listed as both "made" and "uncertain"; class 703-71-10 is shown elsewhere as relating to "not made" goods. Further information is required as to the made-in-Canada status of goods encompassed by all these classes, as well as by class 703-95-90, when qualifying for entry under tariff item 44524-2.

Tariff Proposals

No submissions with respect to the goods enumerated in item 44524-2 have been received from either domestic manufacturers or users.

Staff Appraisal

1. In the absence of any further adequate information on the noted four "uncertain" commodity classes, which would permit relating specific goods to them, they will have to be assigned on the basis of import data or any other available information.

2. Despite the substantial value of imports, the elimination of the item might be envisaged in view of the demonstrated lack of interest and the "made" designation attaching to most of the major relevant classes.

3. Alternatively, a revised version of the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

TARIFF ITEM 44532-1

Existing Tariff Provisions

Electrical instruments and apparatus of precision of a class or kind not made in Canada, viz: Meters or gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, electrolysis, flux, force, frequency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, thrust, synchronism, temperature, time, volts, volume, watts, weight; complete parts thereof

1/1/81	Free	5.6 p.c.	30 p.c.	Free	Free
1/1/82		4.7 p.c.			
1/1/87		Free			

This item was introduced in 1937 and, except for expanding the list of variables to include thrust and weight, has remained unchanged. The M.F.N. rate is bound under GATT at Free. It will be noted that "complete parts" fall under the item regardless of their own made-in-Canada status. Other parts would be dutiable according to material, usually with a bound rate of 10.2 p.c.

The average annual value of imports under item 44532-1 in 1978-80 was \$173.5 million.

In the absence of this item, or when excluded therefrom because they are ruled to be of classes or kinds made in Canada, goods not qualifying for entry under any other end-use provision, would be dutiable under tariff item 44524-1, with a M.F.N. bound rate of 10.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of various gauges and meters, some of which are classified under item 44532-1, is treated in Customs Memorandum D51-22.

(b) Commodity Classes

The following listing, based upon Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item. In some instances more specific product descriptions have been added in parenthesis to the commodity class descriptions. These product descriptions, which have been taken from the C.I.T.C. Commodity Code Index, should not be regarded as being all-inclusive in relation to the coverage of the goods falling within particular commodity classes. In turn, the commodity classes have been listed (in some cases, somewhat arbitrarily, for lack of

information) under the particular variables or terms (e.g. "altitude") mentioned in the nomenclature of the item. Observations are invited in regard to the appropriateness and completeness of these categorizations and respecting the made-in-Canada status of the pertinent goods.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Electrical instruments and apparatus of precision viz: Meters or gauges for indicating and/or recording, namely:	
	Altitude	
634-39-20	Radar, airport surveillance & control Airport primary and secondary surveillance radars, "terminal" and "en route" Other	Made Not Made
634-39-40	Radar, navigation, airborne Airborne surveillance radars, designations AN/APS-503, AN/APS-504, LASR-2 and derivatives Other	Made Not Made
634-39-90	Radar equipment, nes	Uncertain*
634-99-39	Radio navigation equipment nes (altimeters, radio)	Uncertain*
703-62-90	Meteorological instruments/apparatus nes Ceilometers Other	Made Uncertain*
709-19-41	Altimeters, navigational, except radio	Uncertain*
709-93-90	Surveying instruments nes (altimeters, surveyors)	Uncertain*
709-94-90	Geophysical instruments nes	Not Made
	Amperes	
702-04-11	Meters, panel type, current, electrical (ammeters)	Uncertain*
702-04-51	Meters, panel type, digital, all types	Uncertain*
702-04-90	Meters, panel type, nes	Uncertain*
702-17-61	Meters, electricity supply (meters, ampere/hour)	Made
702-22-11	Recorders, strip-chart (recorders, ampere)	Not Made
	Comparison	
529-50-44	Levelling machines, electric manufacturing industry	Made
529-50-90	Electric/electronic industries manufacturing machinery and equipment, nes	Uncertain*
529-94-23	Alignment machy/equip., wheel, auto assy line	Uncertain*
702-17-42	Impedence measuring instruments, except bridges	Made
702-90-21	Checkers & analysers, semi-conductor	Not Made
702-90-24	Analysis system, spectrum, except optical	Not Made
703-77-21	Gas analysis apparatus	Not Made
705-31-80	Gas chromatography equipment	Not Made
705-31-87	Gas chromatography equipment accessories	Not Made
705-90-72	Spectrometers, n.m.r., laboratory X-ray fluorescence spectrometers and radon & theron counter Other	Not Made Made
705-90-71	Spectrometers, mass, laboratory	Uncertain*
705-90-73	Spectrometers, e.p.r., laboratory	Uncertain*
705-90-82	Testing instruments, blood, laboratory type	Not Made
705-90-87	Spectrometers, accessories, except optical	Uncertain*
707-15-20	Spectrophotometers & colourimeters	Not Made
707-15-87	Spectrophotometers & colourimeter accessories	Not Made
709-09-41	Dosimeters, X-ray	Not Made

730-69-20	Balancers, wheel, service station/garage	Not Made
730-69-21	Aligners, wheel, service station/garage	Uncertain*
730-69-23	Brake servicing equipment, motor vehicle service	Uncertain*
730-69-24	Diagnostic equipment, internal combustion engine, motor vehicle service	
	Hand-held diagnostic timing instruments	Made
	Other	Not Made
730-69-25	Analysers, ignition scope, motor vehicle service	Not Made
730-69-26	Gauges, compression, automatic servicing	Not Made
730-69-73	Kits, testing aircraft instruments	Uncertain*
730-69-79	Aircraft maintenance, servicing and repair equipment, nes	Uncertain*
730-69-89	Motor vehicle maintenance, servicing and repair equipment, nes	Uncertain*
	Capacity	
702-17-49	Bridges, electrical measurement nes	
	High voltage capacitance bridge	Made
	Resistance bridge 10 millohm to 10 megaohm	Made
	Temperature bridge	Made
	Other	Not Made
	Density	
709-49-41	Test equipment, profile and surface (porosity, testers)	
	Thickness sensor	Made
	Other	Not Made
709-49-90	Physical properties test/inspection equipment nes	Not Made
703-77-11	Electrolytic conductivity measuring inst (electric density meters)	Uncertain*
703-77-21	Gas analysis apparatus (density, except light meters)	Not Made
	Depth	
634-35-20	Sonar & echo sounding equipment (depth indicators, echo sounding)	Uncertain*
709-19-90	Navigation instruments and apparatus nes (depth recorders, navigation exc. echo sounders)	Uncertain*
	Distance	
634-39-20	Radar, airport surveillance & control	
	Airport primary & secondary surveillance radars, "terminal" and "en route"	Made
	Other	Not Made
634-39-50	Radar, navigation, marine	
	Small ship radars, types LN 66, CMA 1819 and CMA 1820	Made
	Other	Not Made
634-39-90	Radar equipment, nes	Uncertain*
634-99-39	Radio navigation equipment, nes (distance measuring equipment, radio)	Uncertain*
709-93-41	Distance measuring equipment electronic/surveyor	Uncertain*
	Electrolysis	
703-77-11	Electrolytic conductivity measuring inst	Uncertain*
	Flux	
702-90-90	Electrical/electronic properties measuring/ testing instruments nes (flux meter)	Not Made

Force

702-17-35	Meters, field strength	Uncertain*
702-17-89	Electrical properties measuring instruments nes (meters, deviation)	Not Made
702-22-11	Recorders, strip-chart (dynagraph recorder T/N; recorders X-Y)	Not Made
702-90-90	Electrical/electronic properties measuring/ testing instruments nes (intensity meters electronic; meters, distortion)	Not Made Uncertain*
703-48-90	Mechanical motion/rota meas/control inst nes	Not Made
709-49-11	Testers, hardness	Not Made
709-49-31	Test equipment, construction material (testers, burst, sheet material)	Uncertain*
709-49-51	Test equipment, strength of materials	Uncertain*
709-49-61	Testers, abrasion, wear, fatigue & tear	Not Made
709-49-71	Testers, torque	Not Made
709-49-90	Physical properties test/inspection equipment nes (testers: bearing, bending, break-load, elasticity, elongation, impact, rigidity, vibration)	
	Concrete testers	Made
	Other	Not Made

Frequency

702-17-89	Electrical properties measuring instruments nes (frequency shift indicator)	Not Made
702-22-11	Recorders, strip-chart (frequency recorders)	Not Made
702-41-20	Signal generators & test oscillators (frequency standards)	Not Made
702-41-87	Signal generators & test oscillator accessories, nes	Not Made
702-90-90	Electrical/electronic properties measuring/ testing instruments, nes (frequency meters)	Not Made
703-48-90	Mechanical motion/rota meas/control inst nes Vibration, noise and spike energy measuring instruments, analyzers & monitors	Made*
	Other	Uncertain*

Humidity

703-73-10	Humidity measuring/controlling instruments	Not Made
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Inductance

Uncertain*

Liquid Levels

703-44-90	Fluid flow measuring/controlling inst nes (liquid level measuring/controlling inst) Flow measuring read-out devices	Made*
	Other	Uncertain*

Ohms

702-04-21	Ohmmeters, panel type Switchboard ohmmeters as used in temperature measuring devices employing resistance thermal detector (RTD) sensing elements, 4 1/2" square face, 250° scale, 1% accuracy	Made Not Made
	Other	Uncertain*
702-04-51	Meters, panel type, digital, all types	Uncertain*
702-04-90	Meters, panel type, nes	Uncertain*
702-17-47	Megohmmeters	Not Made

	Operation	Uncertain*
	Power Factor	
702-17-89	Electrical properties measuring instruments, nes (power factor meters)	Not Made
702-22-11	Recorders, strip-chart (power factor recorders)	Not Made
	Pressure	
702-90-90	Electrical/electronic properties measuring/ testing instruments nes (test apparatus piezoelectric)	Not Made
703-75-11	Pressure measuring/controlling instruments Load cell for steel mill	Made
	Other	Not Made
703-75-21	Vacuum measuring/controlling instruments	Uncertain*
703-75-31	Pressure-vacuum, combination (measuring and controlling) instruments	Uncertain*
	Space	
634-35-40	Radar, navigation, airborne Airborne surveillance radars, designations AN/APS-503, AN/APS-504 and LASR and derivatives	Made
	Other	Not Made
703-62-90	Meteorological instruments/apparatus nes Transmissometers	Made
	Weather satellite receiving stations	Made
	Other	Uncertain*
709-99-11	Research equipment, astronomical (radio, electronic, telescope)	Uncertain*
709-99-21	Research equipment, atmosphere	Uncertain*
709-94-90	Geophysical instruments nes	Not Made
	Speed	
703-44-21	Meters, water current	Made
703-48-11	Stroboscopes	Not Made
703-48-90	Mechanical motion/rota meas/control inst nes (speed indicators)	Uncertain*
703-62-21	Measuring instruments, wind speed & direction	Made
709-19-90	Navigation instruments and apparatus nes (not speed indicators)	Uncertain*
709-49-90	Physical properties test/insp. equip. nes (anemometers)	Not Made*
	Stress	
702-90-23	Test sets, dielectric	Not Made
702-90-25	Analysis system, noise	Not Made
709-49-51	Test equipment, strength of materials (stress gauges)	Uncertain*
709-49-90	Physical properties test/inspection equipment nes (tension testers)	
	Concrete testers	Made
	Other	Not Made
	Thrust	Uncertain*
	Synchronism	
702-18-11	Oscilloscope, cathode ray (synchroscope)	Not Made

Temperature

703-25-41	Thermometers, electronic, all types	Not Made*
703-25-90	Thermometers, nes	
	Liquid-in-glass capillary tube type	
	thermometer	Made
	Other	Not Made
703-71-10	Thermal measuring/controlling instruments nes	
	(pyrometers, except nuclear)	
	Hand-held digital pyrometers	Made
	Other	Not Made
703-79-21	Combustion measuring/controlling inst	Not Made
703-95-35	Probes, electronic thermometer	Made
709-95-20	Nuclear radiation detecting & measuring	
	instruments (nuclear pyrometers)	Made
709-95-87	Nuclear radiation detecting/meas inst access	Made

Time

688-79-69	Converter equipment, electric nes	Uncertain*
702-18-87	Oscilloscope accessories nes (time base	
	unit oscilloscope)	Not Made
709-95-20	Nuclear radiation detecting & measuring inst	
	(meters, radio activity survey)	Uncertain*
820-21-40	Clocks, wall, electric, synch motor type	Made*
820-21-90	Clocks, electric, synch motor type nes	Made*
820-89-35	Clocks, secondary, for electric time systems	Made*
820-89-40	Time recorders, high precision	Not Made*
820-89-60	Meters, hours	Uncertain*
820-89-70	Watches, stop	Uncertain*
820-89-80	Time recorders, attendance	Not Made*
820-89-90	Time recorders, nes	
	Attendance & job recorders	Not Made*
	Other	Uncertain*

Volts

702-04-31	Voltmeters, panel type	
	Panel type, 2 1/2", 3 1/2" or 4 1/2" square	
	face, 2% accuracy, (3% for rectifying types)	Made
	Switchboard type, 4 1/2" square face, 250°	
	scale, 1% accuracy (1 1/2% for	
	rectifying types)	Made
	Other	Not Made
702-04-51	Meters, panel type, digital, all types (volt	
	meters, digital, panel type)	Uncertain*
702-04-90	Meters, panel types, nes	Uncertain*
702-17-31	Voltmeters & null meters, electronic	Made
702-22-11	Recorders, strip-chart (volt recorders)	Not Made
702-90-11	Counters, digital, electronic (volt meters,	
	digital except panel type)	
	Alpha-beta geiger counter and geiger muller	
	counter	Made
	Other	Not Made

Volume

702-17-61	Meters, electricity supply	Made
702-17-89	Electrical properties measuring instruments nes	
	(decibel meters)	Not Made
702-90-25	Analysis system, noise	Not Made
703-44-31	Meters, water supply	Uncertain*
703-44-90	Fluid flow measuring/controlling inst nes	
	(meters, hydraulic fluid flow)	Uncertain*

Watts		
702-17-51	Wattmeters	Made
702-17-61	Meters, electricity supply (meters, watt/hour demand)	Made
702-22-11	Recorders, strip-chart (watt recorders)	Not Made
Weight		
703-48-90	Mechanical motion/rota meas/control inst nes Dynamic balancing machines capable of balancing rotors weighing up to 50,000 lbs. Other	Made* Uncertain*
708-90-11	Balances and scales, precision Electrical weighing equipment Other	Not Made* Uncertain*
708-90-90	Balances and scales, nes	Uncertain
709-49-90	Physical properties test/inspection equipment nes (weight testers)	Not Made*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Some of the commodity class descriptions listed in Table 4 of Background No. 7 with respect to goods imported under tariff item 44532-1 (for example, c.c. 702-90-90: "electrical/electronic properties measuring/testing instruments nes") are too broad or too indefinite in their coverage to permit them to be matched with any of the variables or terms (such as "weight") mentioned in the nomenclature of the item. These problematical class descriptions are indicated below, together with a number of other descriptions (already listed) respecting which the staff has considerable reservations concerning the accuracy and/or completeness of the matching process. It is to be hoped that interested parties will co-operate in helping to reduce the element of uncertainty with respect to these - and, indeed, any other - commodity classes by: (i) reviewing the commodity class descriptions to determine whether they do, in fact, encompass electrical instruments and apparatus of precision - viz: meters or gauges; (ii) specifying, in the case of relevant classes, which of the electrical or physical variables described in item 44532-1 they record or indicate; (iii) detailing the specifications or characteristics of goods falling under the pertinent commodity classes; (iv) indicating which of the relevant goods are of classes or kinds made/not made in Canada; and (v) developing possible tariff provisions with respect to any of the electrical or physical properties treated in the item.

702-17-11	Meters, multifunction, except digital
702-17-26	Meters, multifunction, digital
702-17-87	Electrical properties measuring instrument accessories nes
702-17-89	Electrical properties measuring instruments nes
702-18-11	Oscilloscope, cathode ray
702-18-31	Monitors, cathode tube, instrumentation, all types (reported "made": fixed gamma ray monitor; head & foot contamination monitor; laser-beam particulate matter in-stock monitor; liquid effluent monitor)

702-18-87 Oscilloscope accessories nes
702-22-11 Recorders, strip chart
702-22-21 Recorders, multipoint
702-22-39 Graphic writing/recording systems, nes
702-22-87 Recorders, electrical properties, accessories
702-22-89 Recorders, electrical properties, nes
702-90-21 Checkers & analysers, semi-conductor
702-90-22 Testers, tube, electron
702-90-87 Electrical properties measuring/testing instrument accessories
702-90-90 Electrical/electronic properties measuring/testing instruments nes
703-78-10 Process & multi-function control machines/apparatus nes
703-79-90 Measuring & measuring/controlling instruments, nes (reported "made": pulp & paper control and sensing control & data acquisition systems)
709-49-21 Testers, ultrasonic, physical properties
709-49-87 Physical properties test/inspection equipment accessories
709-49-90 Physical properties test/inspection equipment nes (reported "made": concrete tester)
771-22-36 Optical character recognition equipment
771-22-66 Plotters, computer output, on line (reported "made": daisy wheel printer and teleprinter)
771-22-80 Converter, computer media conversion equipment
771-22-89 Computer equipment nes

Hand-held digital pyrometers, formerly classified under commodity class 703-25-41, are now placed under 703-71-10 ("thermal measuring/controlling instruments nes"). Certain of the goods previously listed as falling under commodity class 703-62-90 ("meteorological instruments/apparatus nes") have now been excluded on account of the difficulty of accomodating the product descriptions under any of the terms or variables mentioned in the nomenclature of the item.

Since the publication of Table 4 additional commodity classes of possible relevance to tariff item 44532-1 have been identified by interested parties or by the staff, and are now added for review purposes. These classes are as follows:

529-94-23 Alignment machy/equip, wheel, auto assy line
634-39-90 Radar equipment, nes
634-99-39 Radio navigation equipment, nes
688-79-69 Converter equipment, electric nes
703-44-90 Fluid flow measuring/controlling inst. nes
703-48-90 Mechanical motion/rota meas/control inst nes
708-90-11 Balances and scales, precision
708-90-90 Balances and scales, nes
709-19-90 Navigation instruments and apparatus nes
709-19-41 Altimeters, navigational, except radio
709-49-31 Test equipment, construction material
709-93-41 Distance measuring equip. electronic/surveyor
709-93-90 Surveying instruments nes
709-99-11 Research equipment, astronomical
709-99-21 Research equipment, atmosphere
820-21-40 Clocks, wall, electric, synch motor type
820-21-90 Clocks, electric, synch motor type nes
820-89-70 Watches, stop
820-89-90 Time recorders, nes

Of the above commodity classes, 703-48-90 has been brought to the Board's attention, by IRD Mechanalysis Limited, which both produces and imports dynamic balancing machines, transducers, portable analysers and vibration monitors; class 703-44-90 has been added in recognition of the manufacture of fluid flow measuring/controlling instruments by Harding Instruments Co. Ltd.; class 708-90-11 has been included to accommodate the particular interest of Toledo Scale (Division of Reliance Electric Limited) and Tokyo Electric Canada Ltd. in the importation of electronic weighing equipment; while classes 688-79-69, 820-21-40, 820-21-90 and 820-89-90 have been added on the basis of information supplied by Simplex International Time Equipment Co. Ltd., which produces and/or imports "slave" clocks, time recorders and related goods.

Tariff Proposals

IRD Mechanalysis Limited proposes:

- (i) an eo nomine listing of "made" goods under an "other than the following" tariff provision;
- (ii) "in accordance with the GATT Agreement with respect to tariff item 44524-1", the application of a M.F.N. duty of 10.2 p.c. to dynamic balancing machines capable of balancing rotors weighing up to 50,000 lbs., transducers, portable analysers and vibration monitors;
- (iii) duty-free entry for parts used in the production of the aforementioned goods in Canada.

Simplex International Time Equipment Co. Ltd. Canada is of the opinion:

- (i) "slave" secondary clock units are articles of precision when controlled by a master clock, and therefore should remain under tariff item 44532-1;
- (ii) as there are no manufacturers of attendance and job costing systems in Canada, the pertinent equipment should continue to be allowed entry under item 44532-1.

Toledo Scale (Division of Reliance Electric Limited) is concerned that, with the constant change in technology, the tariff classification of weighing scales could be changed to the detriment of the company's business. It proposes:

- (i) a review of the current practice whereby complete systems such as glass-batching systems (which have the capability to record, pre-mix, weigh etc.) have to be imported under tariff items applying to major components (e.g. digital read-out, computer equipment, weighing device etc.) rather than under "a tariff classification encompassing the total system".
- (ii) an acceleration in the reduction in duty rates applicable to tariff item 44532-1;

(iii) since the preponderance of electronic weighing apparatus presently classified under item 44532-1 is not now, nor is likely to be, made in Canada, "the requirement of class or kind not made status should be eliminated".

Tokyo Electric Canada Ltd., in a parallel submission, proposes:

- (i) inclusion of electronic weigh scales in an eo nomine tariff item;
- (ii) removal, as opposed to progressive reduction, of duty with respect to such scales, since these goods "are of a class and kind not made in Canada".

In a submission made in the context of the Board's review of oilfield machinery and apparatus, Harding Instruments Co. Ltd., electronic design consultants and manufacturers, requests that a duty be imposed on fluid flow measuring/controlling instruments nes (c.c. 703-44-90); the company deprecates the fact that, while it pays import duties on electronic components used in the manufacture of its flow meter equipment, this class of equipment, when supplied to the oil industry, is imported duty free [under tariff item 49105-1].

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Although the group does not focus upon particular electrical instruments and apparatus of precision, it appears, from a reading of its submission, that it is particularly concerned about quality control (monitoring and measuring) devices, and in this regard reference is made to the rapid pace of development in the field of electronics.

The Canadian Association of Oilwell Drilling Contractors (CAODC) has also indicated an interest in this item. In a general submission the Association states:

- (i) the "simplest" tariff arrangement would be to take "a bound weighted average rate of duty which would engulf all of the commodities that the oil and gas industry import";
- (ii) the eo nomine approach is "workable" providing consideration is given "to types, sizes and other ratings of goods";
- (iii) periodic reviews should be made to determine what is actually being produced by Canadian manufacturers for the oil and gas industry;
- (iv) emphasis should be placed on quality and availability when determining if a Canadian manufacturer is to be given duty protection.

The Canadian Water Well Association, in its brief relating to water well-drilling machinery, apparatus and parts, mentions an interest in tariff item 44532-1, but does not elaborate further.

Staff Appraisal

1. This is a very wide-ranging item, in relation to which much uncertainty still exists both in respect of the nature of the products and the made-in-Canada status of the pertinent goods. Representations have seemingly touched upon only very small segments of the product range.

2. One possibility for replacing the "class or kind not made in Canada" provision with a more precise description of the goods entitled to entry under item 44532-1, would be to develop several eo nomine tariff items, each covering one or more of the described physical or electrical properties. Under such an alternative, the interests of IRD Mechanalysis Limited, Toledo Scale (Division of Reliance Electric Limited), and Tokyo Electric Canada Ltd. could be accommodated under the term "weight" (or any other term which might seem more appropriate); the proposal of Simplex International Time Equipment Co. Ltd. Canada could be treated under an eo nomine provision related to "time"; while the concerns of Harding Instruments Co. Ltd. could be taken into account by excluding flow measuring read-out devices from any eo nomine listing encompassing electrical instruments used in the measurement or control of "liquid levels".

3. Should it not be possible to cover all relevant goods in this manner - for example, electric meters or gauges to record or indicate "comparison" had an estimated import value of \$19.0 million in 1978 - the application of "availability" criteria might be justified.

4. However, the wholesale application of "availability" criteria, as proposed by the group of steel producers, does not appear warranted.

5. The proposals by Toledo Scale (Division of Reliance Electric Limited) and Tokyo Electric Canada Ltd. for expediting the removal of the M.F.N. duty upon electronic weighing apparatus would extend the purview of the reference beyond matters relating to revisions of the tariff nomenclature.

TARIFF ITEM 46111-1 EX.

Existing Tariff Provisions

Parts when of types or sizes not made in Canada and conversion kits for use in the conversion or modification to metric measure of scales used in retail operations and having a maximum weighing capacity of one hundred kilograms

Free	Free	35 p.c.	Free	Free
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This temporary tariff item was introduced in 1977, and currently has an expiry date of December 31, 1983. It encompasses certain parts and kits required to convert scales used in retail operations to metric measure. It will be noted that the "conversion kits" fall under item 46111-1 regardless of whether or not they are "of types or sizes not made in Canada". Accordingly, such kits are not a subject of inquiry in the present reference.

The average annual value of imports under both the referred and non-referred provisions of this tariff item in 1978-80 was \$372,000.

While the item is not in itself bound under GATT, the goods are covered by the binding affecting the parent item, 46110-1, to which they will revert when item 46111-1 expires, or under which they would be classified if held to be of types or sizes made in Canada. Under item 46110-1, which reads "parts of scales, finished or unfinished", the bound rate is 10.2 p.c. However, the applied rate is 10 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is not aware of any published rulings as to "types or sizes" of the pertinent goods "made" or "not made" in Canada.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Parts for use in the conversion or modification to metric measure of scales used in retail operations and having a maximum weighing capacity of one hundred kilograms	
708-90-18	Balances & scales, precision, parts of	Not Made*
708-90-88	Balances & scales nes, parts of	Not Made*

An asterisk is shown against the provisional made in Canada status of both classes merely to indicate that the reference in Table 4 to the "made" status of the conversion kits has been deleted as irrelevant.

Tariff Proposals

No submissions with respect to the goods enumerated in item 46111-1 have been received from either domestic manufacturers or users.

Staff Appraisal

1. Since, the products covered by the item are not apparently made in Canada, the nomenclature of the item might be retained without the qualifying clause "of types or sizes not made in Canada".

2. Alternatively, in view of the lack of interest in this item and the comparatively low value of imports thereunder, its elimination might be envisaged.

TARIFF ITEM 46115-1

Existing Tariff Provisions

Automatic scales or weighing machines, of a class or kind
not made in Canada, and complete parts of the foregoing,
for use in Canadian manufactures

Free Free Free Free Free

This item was established by Order in Council in 1945 and was made statutory in 1950. The M.F.N. rate of duty is bound at Free under GATT. The item makes provision for "complete parts", regardless of their own made-in-Canada status. Other parts, however, would fall under item 46110-1 at a bound rate of 10.2 p.c., or be dutiable according to their own material or nature.

The average annual value of imports under tariff item 46115-1 in 1979-80 was \$7.0 million.

When excluded from this item because they are ruled to be of classes or kinds made in Canada, or are not for the use specified, the goods revert to the parent item 46105-1, which, among other articles, provides for "scales, balances and weighing beams of all kinds, n.o.p.". The M.F.N. rate of duty for this item was bound at 10.2 p.c. under the MTN. Parts of scales, finished or unfinished, fall under tariff item 46110-1, also bound at 10.2 p.c. Parts of weighing machines, other than scales, would continue to be dutiable according to their nature or material, usually with bound rate of 10.2 p.c.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of automatic scales such as are used with belt conveyors is treated in Customs Memorandum D51-13.

(b) Commodity Classes

The following listing based upon information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Automatic scales or weighing machines, for use in Canadian manufactures	
708-90-11 Balances & scales, precision	
Conveyor scales	Made
Other	Not Made

Tariff Proposals

A group of steel producers - The Algoma Steel Corporation, Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) providing for the known "not made" goods in an eo nomine duty-free tariff item;
- (ii) establishing a separate dutiable item with a basket provision for the remaining goods, such goods to be unnamed and subject to duty remission when not available from domestic sources.

Staff Appraisal

1. In view of the fact that, except for conveyor scales, the products covered by the item appear to be not made in Canada, an appropriately modified version of the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

2. The circumstances relating to the goods falling under the aforementioned tariff item do not seem sufficiently "special" as to warrant the application of "availability" criteria, either on a temporary or permanent basis.

TARIFF ITEM 46218-1

Existing Tariff Provisions

Cameras and animation stands, of a class or kind not made
in Canada, for use in the commercial production of ani-
mated films; parts of the foregoing

Free	Free	30 p.c.	Free	Free
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This item is bound Free under the M.F.N. Tariff. It was introduced in 1977, and encompasses certain "not made" goods, previously classified under former item 46210-1, item 46200-1 and item 42700-1, for use in the commercial production of animated films. It will be noted that parts are admissible under the item, regardless of whether or not they are themselves of a class or kind made in Canada.

The average annual value of imports under this item in 1978-80 was \$150,000.

When excluded from this item because they are ruled to be of classes or kinds made in Canada, or are not for the use specified, the cameras are classified under tariff item 46205-1 ("cameras, n.o.p."), with a bound rate of 7.5 p.c. under the M.F.N. Tariff. It will be noted that only complete parts fall under this latter item. Parts not ready for use in the condition imported would be classified according to their nature or material, usually under items having bound rates of 10.2 p.c. Animation stands are usually mechanical in nature and are classified as "machines" under tariff item 42700-1, with a bound rate of 9.2 p.c., subject to the Machinery Duty Remission Program. The stands, if non-mechanical, would probably fall under tariff item 46200-1, which has a M.F.N. rate of 7.5 p.c., bound under GATT. This item also covers parts.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board's staff is not aware of any published rulings on the made-in-Canada status of the pertinent cameras and animation stands.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Cameras	
911-11-89 Cameras, still, nes	
Animation cameras	Made
Other	Not Made*
Animation Stands	
919-99-90 Photographic equipment and supplies nes	
Animation stands	Made

* Indicates a change from Table 4.

Tariff Proposals

No submissions with respect to the goods enumerated in item 46218-1 have been received from either domestic manufacturers or users.

Staff Appraisal

1. In view of the lack of interest in this item and the comparatively low value of imports thereunder, its elimination might be envisaged.

2. Alternatively, the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

3. Another possibility would be to create a separate item for the animation stands and allow the cameras to fall elsewhere in the Customs Tariff.

TARIFF ITEM 46246-1

Existing Tariff Provisions

Cinematograph and motion picture cameras and camera blimps; optical and magnetic sound equipment; dollies, or other mobile mounting units for motion picture cameras; booms, without wiring, for use with microphones; editing equipment, namely: film editing machines, film splicers, film synchronizers, film viewers, rewinds; parts of the foregoing;

All of the foregoing when of a class or kind not made in Canada, for use in the commercial production of motion pictures or animated films

Free	Free	30 p.c.	Free	Free
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This item was introduced in 1977 for the benefit of the Canadian motion picture industry and provides for a variety of film-making equipment. The M.F.N. rate of duty has now been bound at Free under the GATT. It will be noted that, to be admissible under this item, parts must themselves be of a class or kind "not made in Canada."

The average annual value of goods imported under this tariff item in 1978-80 was \$1.1 million.

This item parallels tariff items 46220-1 and 46245-1 which cover exactly the same goods, without any "not made" qualification, but with a more restrictive end-use:

46220-1

Cinematograph and motion picture cameras and camera blimps for use by professional motion picture producers having studios in Canada equipped for motion picture production; parts of the foregoing

Free	Free	15 p.c.	Free	Free
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46245-1

Optical and magnetic sound equipment;
Dollies, or other mobile mounting units for motion picture cameras;
Booms, without wiring, for use with microphones;
Motion picture editing equipment, namely: film editing machines, film splicers, film synchronizers, film viewers, rewinds;
Parts of the foregoing;

All the foregoing when for use in the production of motion pictures by professional producers having studios in Canada equipped for motion picture production

Free	Free	15 p.c.	Free	Free
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In both cases, free entry under the M.F.N. Tariff is bound under GATT.

When items 46220-1 and 46245-1 were originally introduced, motion picture production in Canada was largely limited to fully equipped studios with their own cameras, sound equipment, editing equipment, etc. These items were then adequate to cover their needs. However, as the industry developed, films came to be made more and more on location, by free-lance producers, often using rented equipment and then contracting out the sound processing to sound houses and the editing to firms specializing in that aspect of the industry. Item 46246-1 appears to have been introduced to meet these developments. It will be noted that the end use in item 46246-1 is broad enough to encompass that in the earlier two items, even taking into account the recognition of commercial television stations as being involved "in the production of motion pictures by professional producers having studios in Canada equipped for motion picture production", and the consequent inclusion of videotape recorders and reproducers as "magnetic sound equipment".

When excluded from the above three items because they are ruled to be of classes or kinds made in Canada, or are not for the uses specified, the goods would fall under various tariff items, all of which have been bound under GATT. Goods classifiable under item 46246-1, but not qualifying for entry under items 46220-1 and 46245-1, would also revert to these items if item 46246-1 should be eliminated. The alternative classifications of the goods and the applicable bound rates of duty are as follows:

cinematograph cameras		
motion picture cameras	46205-1	7.5 p.c.
camera blimps		
optical sound equipment		
film editing machines		
film splicers		
film synchronizers		
film viewers		
rewinds	46200-1	7.5 p.c.
magnetic sound equipment	44538-1	8 p.c.
dollies, mechanical	42700-1	9.2 p.c.(a)
dollies, non-mechanical	according	
	to material	10.2 p.c.(b)
mobile mounting units	43803-1	9.2 p.c.
booms, without wiring	according	
	to material	10.2 p.c.(b)

(a) Subject to the Machinery Duty Remission Program.

(b) Usually at this rate.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The Board is not aware of any published rulings as to the "class or kind" status of the pertinent goods.

(b) Commodity Classes

The following listing based upon the information in Background No. 7, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
The following when for use in the commercial production of motion pictures or animated films:	
Cinematograph and motion picture cameras	
911-11-89 Cameras, still, nes	Not Made
911-18-11 Cameras, movie, 8mm, & super 8, silent	Not Made
911-18-21 Cameras, movie, 16mm, silent	Not Made
911-18-31 Cameras, movie, sound recording, all types	Not Made
911-18-90 Cameras, movie, nes	
70 mm cameras	Made
Others	Not Made
Camera blimps	
911-49-90 Camera accessories, photographic nes	Not Made
Optical sound equipment	
707-29-90 Optical apparatus/instruments nes	Uncertain*
915-48-90 Photographic processing/finishing equip. nes	Uncertain*
Magnetic sound equipment	
634-45-22 Pre amplifiers, audio	Uncertain*
634-45-90 Amplifiers, audio, nes	Uncertain*
634-75-30 Recorders & players, tape, audio, commercial	Uncertain*
634-75-40 Recorders/players, tape, video, exc.	
T.V. broadcast	Uncertain*
634-75-90 Recorders & players, tape, nes	Uncertain*
634-95-49 TV broadcast studio equipment	Uncertain*
Dollies	
919-99-21 Dollies, camera, cinematographic	Not Made
Other mobile mounting units for motion picture cameras	
919-99-90 Photographic equipment & supplies nes	Not Made
Booms, without wiring for use with microphones	
639-99-90 Electronic equipment components, nes	Uncertain*
Editing equipment, namely: film editing machines film splicers, film synchronizers, film viewers rewinds	

919-45-31	Editing machines, movie film	Not Made
919-45-35	Editing/recording equipment, magnetic sound track	Not Made

* Indicates a change from Table 4 and a class regarding which further information is required.

The classes for which further information is sought have all been added by the Board's staff as being possibly relevant to optical sound equipment (to reproduce sound optically on the film) or magnetic sound equipment (to add sound on magnetic strip to a film). Further information is sought with respect to these and other possibly relevant classes.

(c) Other Information

At the public hearing, in response to representations made by the Canadian Recording Industry Association (see below), Ward-Beck Systems Limited stated that it manufactures sound recording equipment, which it has sold to the broadcast industry, both radio and television, in Canada and the United States. The company claims that:

"... in a great number of cases the equipment manufactured by us in Canada would be perfectly acceptable to the sound recording industry and that the removal of import duties on competitive products manufactured outside Canada would be potentially harmful to Ward-Beck Systems Limited and to McCurdy Radio Industries Limited by increasing the proportion of this business being placed outside Canada."

Tariff Proposals

No representations were received from the motion picture industry, per se, or from any producers other than those of magnetic sound equipment.

The Canadian Recording Industry Association (CRIA) represents producers and distributors of records and tapes and of studios engaged in their recording. The studios use similar magnetic sound equipment as described under item 46246-1, but benefit from the end-use exemptions only when the studio is also engaged in recording or processing of sound for commercial motion picture production (including animated films).

The CRIA states that the relevant equipment used by the full-time, well-equipped studios of international standards, is not made in Canada, and in this regard proposes:

(i) expanding the ambit of item 46246-1 to include a broader range of specific equipment used in the process of sound recording so as to permit duty free entry regardless of whether studios provide services only to the film production industry or only to the phonograph record production industry, or a combination of both.

(ii) expanding the list of equipment for use by commercial studios of sound recordings, in addition to motion pictures or animated films to which item 44246-1 is presently limited; or as an alternative,

(iii) creating a new tariff item with the following nomenclature:

Mixing consoles, tape recorders, noise reduction devices, power amplifiers and pre-amplifiers, monitor speakers and headphones, echo and reverberation devices, compressors, harmonizers, vocal stressers, equalizers, digital delay devices, effects modules, time modulators, microphones and microphone stands, cables, harnesses, patch-cords, splicing blocks, timers, tapes, oscilloscopes and auditory testing equipment, other signal processing equipment, metronomes, bulk tape degauzers, turntables, cartridges.

All of the foregoing for use in professional sound recording studios.

Staff Appraisal

1. Certain types of goods are still of "uncertain" made in Canada status. In the absence of any further adequate representations which would permit assigning goods to "made" or "not made" classes, they will have to be assigned on the basis of import data or any other available information.

2. There have been no representations from either the film industry who should be the user primarily concerned with the coverage of the nomenclature or the manufacturers of the relevant equipment.

3. There has been no dispute regarding the provisional made-in-Canada status of the relevant commodity classes listed in Table 4 of Background No. 7. These classes, it should be noted, do not encompass magnetic sound equipment.

4. Subsequently, the made-in-Canada status of magnetic sound equipment has been the subject of conflicting testimony.

5. The primary area of contention is peripheral to the reference but concerns a somewhat anomalous situation: magnetic sound recording equipment is free of duty when imported for use by fully-equipped studios (including television stations); if "of a class or kind not made in Canada", it is free of duty when imported for use in the commercial production of motion pictures or animated films; but, irrespective of its made-in-Canada status, it is dutiable when imported for use by sound recording studios not involved in the motion picture industry.

6. The proposal by the CRIA appears to go beyond the scope of the reference, by adding to the end-use provisions, and specifying additional products more particularly related to the sound recording than the film industry.

7. Since, except for 70mm cameras and possibly some sound equipment, the products covered by the item are not made in Canada, the nomenclature of the item might be retained, in a modified form, without the qualifying clause: "of a class or kind not made in Canada". It might also be combined with items 46220-1 and 46245-1.

8. Alternatively, since neither the users nor the manufacturers primarily concerned made any representations, elimination of the item might be envisaged.



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